



## Why strangulation should not be minimized

by Marna Anderson

It is not uncommon for battered women to minimize the violence they experience in a strangulation assault, or for abusive men to deny the violence they have perpetrated. Victims have been heard to say, "He didn't really choke me, he just had me in a headlock and I couldn't breathe." Defendants make similar comments such as, "Why are you arresting me? All I did was choke her."<sup>1</sup>

It is estimated that 23% to 68% of women victims of domestic violence have experienced at least one strangulation assault during their lifetime.<sup>2</sup> And death can happen quickly. The loss of consciousness can occur within approximately 10 seconds and death within 4 to 5 minutes.<sup>3</sup> Those not working in the criminal justice system or with battered women are often surprised to learn that strangulation is frequent in domestic violence and is an indicator of escalating violence and potentially, domestic homicide.

In 2005, Minnesota became one of just six states (now 10) with a statute making strangulation of a family or household member a felony-level crime. The law went into effect on August 1 at 12:00 a.m., and approximately 10 minutes later, a Stearns County man was arrested and charged under the statute. The tally for the state now stands at 3,638 charges, with almost a fifth originating in Hennepin County. That's just one county in one state in one country.

Prior to the enactment of the law, many strangulation assaults were charged as misdemeanor domestic assaults that were frequently reduced to lesser charges or simply dismissed altogether. Minnesota's felony strangulation law provides the criminal justice system with the opportunity to educate victims and defendants about the seriousness and potential lethality of a strangulation assault. And it also gives the justice system a tool for intervention. As an assistant Hennepin

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<sup>1</sup> Strack, G.B., McClane, G.E., Hawley, D. (2001). A review of 300 attempted strangulation cases: criminal legal issues. *Journal of Emergency Medicine*, 21, 303-309.

<sup>2</sup> Berrios, D. C., & Gracy, D. (1991). Domestic violence: risk factors and outcomes. *Western Journal of Medicine*, 155, 133-135. Wilbur, L., Highley, M., Hatfield, J., Surprenant, Z., Taliaferro, E., & Smith, D.J., et al. (2001). Survey results of women who have been strangled while in an abusive relationship. *Journal of Emergency Medicine*, 21, 297-302.

<sup>3</sup> Strack, op. cit., 303-309.

## What's new

### Gold WATCH award presentation

Please join us on May 20 as we honor Ellen Pence with the 2009 Sheila Wellstone Gold WATCH award.

Ellen is the director of Praxis International, a nonprofit training and research organization working to eliminate violence against women and children. Her name is a household word among advocates, synonymous with the best thinking and creative work on behalf of battered women for more than 30 years. From interagency coordination, batterers' intervention, advocacy, and supervised visitation to community organizing and racial disparities, she has worked to improve the social and legal institutions affecting battered women and their children. Her work informs all of our efforts, and we invite you to join us in honoring her.

There will be time for socializing over appetizers and beverages before and after the short program. The

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County attorney noted, "Anytime we are able to file a felony charge and convict on one, we are enhancing victim safety."<sup>4</sup>

### **WATCH's research**

To gauge the initial impact of the law, WATCH reviewed 59 strangulation cases charged in Hennepin County during the first six months of the law's implementation (August 1, 2005 to January 31, 2006) and published a report with results and recommendations in January 2007. Overall, the study showed that the statute had improved how these cases were handled, but that more could still be done.

WATCH conducted a comparable study of Hennepin County strangulation cases charged two years after the first set (August 1, 2007 to January 31, 2008) to assess the ongoing impact of the law. In the follow-up study, we reviewed 96 cases and monitored about 60 hearings involving 45 of those cases. This article reflects the highlights of the study—to view the full report visit [www.watchmn.org](http://watchmn.org).

### **Study highlights**

The felony strangulation statute continues to have an overall positive impact on holding domestic abusers accountable for their violence. Compared with the earlier time frame, there was a 61% increase in cases charged, with slightly more convictions on a variety of both misdemeanor and felony charges. Notably, the conviction rate for any felony increased from 17 percent to 38 percent, and the conviction rate for qualifying domestic violence crimes (which allows subsequent domestic violence crimes to be charged at a higher level) increased by seven percent.

The conviction rate under the felony strangulation statute alone, however, has actually decreased—from 54 percent in 2005 to 40 percent in 2007. On the upside, in most cases, the statute is being used to leverage convictions on other felony charges. On the downside, though, allowing the strangulation charge to slip away unfortunately sends the wrong signal to the offender and allows him—and others, including justice system personnel—to minimize a potentially lethal assault. At the time of this report, nine of the 95 defendants with 2007 cases had already been charged with additional domestic violence-related offenses. Tellingly, eight of the nine had had the felony strangulation charge dismissed.

On average, defendants in both studies received much shorter sentences than allowed under the strangulation statute. And while three-fourths were placed on supervised probation, only 66 percent of the defendants were ordered to have no contact with the victim as part of their probation, a low percentage given the level of violence described in the criminal complaints. Furthermore, despite a statutory requirement, only 38 percent of the probationary sentences ordered a defendant to attend a domestic abuse program.

In addition to looking at these case outcomes, WATCH analyzed criminal complaints to see how the language influenced prosecution. Complaints were reviewed using three criteria: 1) use of the word "strangle" 2) description of strangulation-related injuries; and 3) whether breathing was impaired. Just sixteen (17 percent) of the 96 complaints contained all three elements. This is an area that needs improvement.

Having a strong complaint that accurately describes the assault as "strangulation," demonstrates that the victim had difficulty breathing, and records victim and witness statements at the scene, could go a long way towards improving prosecution. Documenting impeding breathing in reports has improved—the percentage of cases meeting this requirement was up from 83 percent in 2005 to 90 percent in 2007, but the word "strangle" was used less frequently than "choking" in 2007 than in 2005. Stronger complaints could lead to less reliance on victim testimony and fewer plea bargains.

### **Conclusion**

As the earlier WATCH report demonstrated, Minnesota's felony strangulation law has increased victim safety and offender accountability. Under the law, violent domestic abusers are being charged with a crime that accurately reflects its seriousness.

However, as our 2007 review shows, it is common for the strangulation charge to be dismissed in exchange for a conviction on another charge, and when a felony strangulation conviction is obtained, the sentence given is often shorter than allowed under the statute. While these may be good strategies for obtaining a guilty plea, letting go of the strangulation charge can lead to continued minimization of escalating violence on the part of the defendant, victim, and system. As one probation officer observed in our earlier review, "...defendants are frequently given a break. I think people are walking out of here with 60 or 90 days and with lots of denial." The cycle of denial, then, remains to be broken. One way

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<sup>4</sup> WATCH. *The Impact of Minnesota's Felony Strangulation Statute*. Minneapolis: WATCH, 2007.

# Invest in WATCH

by Susan Lenfestey, founder

If you are reading this newsletter, chances are that you are a WATCH court monitor, a WATCH donor, an elected official or a justice system employee. Or maybe you're just someone who cares about preventing violence against women and children.

Whatever your connection, we thank you for your interest and support, and for taking violence against women seriously, and we hope you will consider making a year-end gift to support our work. (And, thank you to those criminal justice system professionals who strive to deliver high quality justice despite bargain basement funding.)

WATCH sends trained monitors to observe more than 5,000 court hearings in Hennepin County each year, and provides reliable feedback to those in the system from the public's point of view. WATCH's presence in the courtroom also sends the message that a just society does not turn its back on victims of violence, regardless of the status, gender, or relationship of the parties involved.

This year WATCH has implemented two specialized monitoring projects. In juvenile court, monitors are observing child protection hearings, noting how the court treats mothers who are themselves being abused. The other project involves providing more extensive monitor feedback to judges who have requested more input from WATCH.

Every year we provide phone and email assistance to groups across the country and host web-based seminars attended by people from almost every state.

Like all of you, we are closely watching our dollars. We have reduced our expenses so that we will finish the year roughly \$45,000 under budget, and we have cut next year's budget from \$445,816 to \$355,000, which will allow us to maintain our core staff by cutting back on hours, but not positions, for the near-term.

WATCH continues to accomplish so much with so little, thanks to our creative and hard-working staff and our dedicated volunteers. But we depend on you, dear reader, for much of our funding.

Our fiscal year ends on June 30, 2009, and we hope you will use the enclosed envelope, go to [www.watchmn.org](http://www.watchmn.org), or call the office at 612-341-2747, x1 and make a donation to help us continue to do our small part in making the world, or at least part of the world, a safer place for women and children. Thank you for whatever you can do, and for all you have already done.

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to begin to break that cycle is for all those involved with strangulation cases to do their utmost to demonstrate the seriousness and dangerousness of this crime. The following recommendations should serve as a starting point.

### Recommendations

Recommendation #1

- Create a specialized team of prosecutors who would strive to obtain convictions on domestic assault strangulation charges.

Recommendation #2

- Eliminate the use of stay imposition of sentences in domestic strangulation cases.

Recommendation #3

- Sentence defendants to the maximum sentence allowed under the statute to avoid minimizing the seriousness of a strangulation assault.

Recommendation #4

- Ensure that supervised probation is ordered for all defendants convicted of crimes involving strangulation regardless of the level of the final conviction. Probationary conditions for these defendants should include domestic abuse programming as required by statute, based on risk assessments and pre-sentencing investigations. Anger management should not be recommended by corrections or ordered by a judge in place of participation in a domestic abuse program.

Recommendation #5

- Provide periodic training for criminal justice system personnel throughout Minnesota on investigating and prosecuting strangulation cases under the statute.

Recommendation #6

- Provide a checklist for law enforcement officers who respond to domestic assault strangulation scenes to ensure that all necessary questions are asked of victims and witnesses, injuries are documented and photographed, and appropriate medical treatment is provided.

Recommendation #7

- Encourage the judiciary to standardize probation revocations when defendants who have committed strangulation violate the terms of their probation. Further, encourage the judiciary to emphasize to defendants at sentencing the seriousness with which any violation of a no contact order or order for protection will be met.

# Chronology of an Offender: Scott Allen Youngmark

by Sarah Coulter, Court Monitoring Coordinator

Scott Allen Youngmark, 41, has a history of criminal violence going back 23 years. Besides assaulting and threatening five intimate partners, two of their family members, and three acquaintances, he has victimized eight members of his own family, including his parents, grandmother, a cousin, an aunt, and three of his uncles. Police reports and criminal complaints for these incidents repeatedly describe the terror and helplessness his victims felt in the face of his violence.

The first charge brought against Youngmark was for raping his 45-year-old aunt when he was only 19. The next set of charges stemmed from violence toward an intimate partner and included second degree assault, terroristic threats, two charges of violating an order for protection (OFP), and six counts of fifth degree domestic assault. The victim in these cases eventually moved to an undisclosed location to escape Youngmark's violence. After she fled, Youngmark called police to report her "missing," and a week later her mother called police to report that the car her daughter had left behind had been set on fire. Youngmark continued to attack his victims with impunity year after year. If he was arrested or charged with a crime, he threatened them directly and indirectly not to cooperate with law enforcement or prosecutors, a strategy that typically worked to his advantage.

Three of Youngmark's uncles were present while he terrorized and assaulted his grandmother, and were themselves assaulted when they tried to call the police. His grandmother eventually obtained an OFP against him, but this did little to deter Youngmark from calling and terrorizing her household. One uncle was so fearful of retaliation from Youngmark that he declined to give a statement to investigating officers.

This chronology documents 39 cases—20 of which resulted in a total of 69 charges—against Youngmark. The 19 uncharged cases included seven domestic assaults, three OFP violations, two cases of arson, and a terroristic threats charge. Of the 20 charged cases, nine were dismissed altogether, and another five resulted in some of the charges being dropped during plea negotiations. The completely dismissed cases included criminal sexual conduct, multiple domestic assaults, three OFP and restraining order violations, and another case of arson.

Note to readers: WATCH includes as much information in

chronologies as possible, including the names and titles of justice system members involved in the case. We want readers to see how many people are involved at each step and also what decisions they make. We believe this transparency can lead to greater accountability. Many justice system names are missing from this chronology—mostly the names of prosecutors or defense attorneys, but in some cases of judges as well—due to their absence in the statewide database, MNCIS (Minnesota Court Information System). We understand the county is working to rectify this problem and hope to have more complete information in the next chronology.

## Case 1: Third degree criminal sexual conduct (felony)

*1/11/86 Anoka County criminal complaint:* Victim A, age 45, reported to the Fridley Police Department that during a visit to her home the previous evening her nephew, Scott Allen Youngmark, 19, sexually assaulted her. Shortly after midnight, he climbed into bed with her, took off his clothes, and got on top of her. The victim pleaded for him to stop, but he held her down and raped her and threatened her with a gun when she began crying. After he left, she called a relative to talk about what happened, and the next day she made a statement to police. Youngmark was subsequently arrested for another crime, and two days later, police questioned him in jail about the assault of his aunt. Officers noted he appeared "very disgruntled and upset with himself," but denied raping his aunt, stating that he "had sex" with her.

*2/4/86 First appearance Case 1:* Anoka County Judge Daniel Kammeyer arraigned Youngmark on third degree criminal sexual conduct, set bail at \$5,000, and ordered him to provide a DNA sample.

*2/13/86 Hearing Case 1:* Youngmark pleaded not guilty.

*4/28/86 Outcome Case 1:* MNCIS noted that Victim A did not want to testify against her nephew and **the case was dismissed**. The prosecutor was Stephen Muehlberg and the defense attorney was Stephen Nicol.

## Case 2: Fifth degree domestic assault<sup>\*1</sup>

*2/24/90 Minneapolis police report:* Victim B told responding officers that Youngmark, her boyfriend, backhanded her across the nose with his fist and punched

<sup>1</sup> Offenses with asterisks\* are those for which no offense level, e.g., misdemeanor, gross misdemeanor, or felony, was given because they were never charged. We assume that fifth degree domestic assaults are misdemeanors, unless they were enhanced to a more serious level offense after repeated convictions, but this is not clear in the records we reviewed for this chronology.

her in the mouth during an argument in her car. He then grabbed her hair and repeatedly banged her head into the driver's window. She fled to a fire station while **Youngmark drove off in her car**. Responding officers noted that she had a bloody nose and swollen upper lip. **The case was recommended for further investigation, but was never charged.**

### **Case 3: Fifth degree domestic assault\***

*4/28/90 Minneapolis police report:* Victim B called police from her mother's house to report she had fled from her home after Youngmark kicked her in the face. Responding officers noted that she had blood on her shirt. **The case was recommended for further investigation, but was never charged.**

### **Case 4: Fifth degree domestic assault\***

*7/31/90 Minneapolis police report:* Victim B told responding officers that Youngmark punched her in the face when she confronted him about being with another woman. **Youngmark fled the scene before police arrived, and although the case was recommended for further investigation, it was never charged.**

### **Case 5: Fifth degree domestic assault (misdemeanor)**

*5/3/91 Minneapolis police report:* Officers were called to the scene of a domestic assault. Victim B reported that Youngmark assaulted her, tried to run her over with her car, and smashed her windshield. She fled to a pay phone and called the police. Officers noted that Youngmark appeared to be intoxicated and admitted assaulting her. **He was arrested at the scene.**

*5/3/91 Hearing Case 5:* Judge Kenneth Gill set bail at \$2,800. Three days later, Youngmark posted bail and was released.

*5/8/91 Outcome Case 5:* **The case was dismissed** because, according to MNCIS, "victim unwilling to testify." The prosecutor was Gary Hjort.

### **Case 6: Two counts of fifth degree domestic assault (misdemeanor) and one count of disorderly conduct (misdemeanor)**

*4/12/92 Minneapolis police report:* Victim B told responding officers that she was in a car with Youngmark when he stopped at a gas station to make a phone call and she overheard him swearing into the phone. She

became upset when she found out he was swearing at her mother. When she refused to leave the station with him, he struck her in the head and tried to pull her out. Youngmark assaulted a store employee who tried to intervene. **Youngmark fled the scene, but was subsequently arrested when police saw him drive by Victim B's mother's house and throw a bottle at her door.**

*4/13/92 Hearing Case 6:* Judge Lucy Wieland conditionally released Youngmark after he posted bail of \$1,500.

### **Case 7: Terroristic threats and violation of a restraining order\***

*8/7/92 Minneapolis police report:* While on conditional release, Youngmark threatened to kill Victim B by bashing in her skull and leaving her bloody in the bathtub. The victim stated that she fears for her and her family's lives and believes that Youngmark is unstable. **The case was recommended for further investigation, but was never charged.**

### **Hennepin County Civil Case A**

*8/10/92 OFP petition:* Victim B filed for an OFP against Youngmark based on an assault that included him dragging her by the hair up a flight of stairs and into her bedroom, injuring her arm in the process. He forced her to stay there, threatening to hurt her if she left. Judge Gill granted the temporary ex parte OFP.

### **Case 8: Second degree assault\***

*8/23/92 Minneapolis police report:* Victim C, a friend of Youngmark's girlfriend, reported to responding officers that Youngmark approached him while he was at Victim B's house. They exchanged words, and Youngmark hit him in the face with a hockey stick. Paramedics responded to the scene. At this time, Youngmark was still on conditional release from Case 6. **The case was recommended for further investigation, but was never charged.**

### **Case 9: Violation of an order for protection\***

*8/24/92 Minneapolis police report:* Victim B told responding officers that Youngmark followed her to her sister's house and yelled at her as she walked to the house, in violation of his conditional release on Case 6. Officers noted that Youngmark had threatened Victim B numerous times. **The case was never charged.**

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<sup>2</sup> When a sentence is stayed, the defendant is not required to serve the specified time in jail unless he violates the conditions of probation and a judge orders the sentence to be executed.

## **Chronology of an Offender** *Continued from page 5*

**9/2/92 Outcome Civil Case A:** Youngmark appeared in court and denied the allegations, but agreed to the order. Judge Steven Lange granted Victim B a one-year OFP prohibiting Youngmark from contacting her, going to her home, and committing further acts of domestic abuse against her.

**10/5/92 Outcome Case 6:** **Youngmark pleaded guilty to one count of fifth degree domestic assault, and the other two charges were dismissed.** Judge Henry McCarr sentenced him to 90 days in the workhouse with 65 days stayed<sup>2</sup> for one year and credit for two days served. Conditions of probation included therapy as directed by probation, no contact with victim, no criminal charges, and \$20 in restitution within 30 days.

### **Case 10: Missing person\***

**11/17/95 Minneapolis police report:** Youngmark called police to report Victim B as missing. Her mother later told police that her daughter had fled the area to escape Youngmark's violence, and the case was closed.

### **Case 11: Arson\***

**11/25/95 Minneapolis police report:** Officers investigated a fire in Victim B's car and concluded the fire was intentionally set. Victim B's mother did not want to give police information on her daughter's whereabouts out of concern for her safety. **The case was never charged.**

### **Case 12: Fifth degree domestic assault (gross misdemeanor)**

**3/2/97 Minneapolis police report:** Victim D told responding officers that Youngmark, her live-in boyfriend, became enraged and began throwing furniture around the room, hitting her on the side of her head with a T.V. set. Youngmark was gone when police arrived. When officers later accompanied her home to get her belongings, Youngmark had returned and **was arrested.**

**3/3/97 First appearance Case 12:** Judge Janet Poston ordered \$1,200 bail and Youngmark was released with extensive conditions, including no contact with the victim and no same or similar charges.

**4/9/97 Outcome Case 12:** MNCIS noted the **state motioned to dismiss the case**, citing insufficient evidence. The prosecutor was Julie Helling, and the defense attorney was Elizabeth Hughes.

### **Case 13: Fifth degree domestic assault\***

**5/11/97 Minneapolis police report:** Victim D told responding officers that her fiancé, Youngmark, punched her in the eye and nose, struck her several times in the head, and pulled out her hair. She also told them that Youngmark had driven to a friend's house before they arrived, even though his license had been suspended. **The case was never charged.**

### **Case 14: Fifth degree assault (misdemeanor)**

**8/10/97 Staples police report (Todd County):** Victim D told responding officers that Youngmark called her names, grabbed her, and pushed her around several times. Officers noted several fingerprint marks on her arm and that her neck was reddened. **Youngmark was arrested at the scene.**

**8/11/97 First appearance Case 14:** Todd County Judge Sally Robertson arraigned Youngmark and set bail at \$500. Three days later, Youngmark posted bail and was released under the condition that he have no contact with Victim D.

**9/29/97 Outcome Case 14:** **Youngmark pleaded not guilty, and Todd County Judge Timothy Baland continued the case for dismissal in six months.** The prosecutor was Gaylord Saetre, and the defense attorney was Soren Petrek.

### **Case 15: Two counts of domestic assault (gross misdemeanor) and one count of disorderly conduct (misdemeanor)**

**11/8/97 Minneapolis police report:** Victim D called 911, and the dispatcher told police that during the call the line went dead. A witness flagged down responding officers to report a domestic assault at a neighboring home. Upon arrival, officers found Victim D partially clothed and lying at the bottom of the stairs, crying. She told police that Youngmark threw her around the kitchen and into the living room, and two witnesses finally pulled him off after he began to strangle her. One of them hung up the phone during her call to 911. When Youngmark began struggling with them, they became afraid and went to a gas station to call the police. Officers observed a bump on Victim D's forehead and one on the back of her head. **Youngmark was arrested.**

**11/10/97 Hearing Case 15:** Judge Thorwald Anderson set bail at \$4,000 with extensive conditions.

**12/3/97 Outcome Case 15: Youngmark pleaded guilty to one count of domestic assault, and the other two charges were dismissed.** Judge Daniel Mabley sentenced him to 200 days in the workhouse with 170 days stayed for one year. Conditions included no assault; no breach of peace, disorderly conduct, obstructing police, stalking, or same or similar charges; enter and complete counseling as ordered by probation and follow all recommendations; and no violations of harassment or protection orders. The prosecutor was Eileen Strejc, the defense attorney was Barbara Kehrberg, and Roy Elliott was the probation officer.

**5/1/98 First arrest and detention (A&D) order Case 15:** An A&D was issued after Oakdale Police alleged that Youngmark violated his probation by committing theft and driving while intoxicated and requested he be held without bail.

#### **Case 16: Terroristic threats (felony)**

**5/10/98 Oakdale police report (Washington County):** Victim D reported to responding officers that Youngmark called her numerous times and threatened to "take her down." Officers confirmed an outstanding warrant for Case 15. While officers were taking her statement, Youngmark called, but hung up when she handed the phone to the police. The next day, Victim D received a phone message in which Youngmark threatened to kill her and stated, "Boy, you really f\*\*\*ed up. You understand b\*\*\*\* what you did? You're f\*\*\*ing dead!" Officers recorded the message to use as evidence.

#### **Case 17: First degree domestic assault\***

**5/19/98 Minneapolis police report:** A neighbor heard screaming followed by a thud in Youngmark's mother's apartment and called the police. Officers found Victim D lying in the doorway, unresponsive and covered in blood. She was taken to the hospital, where she received stitches and nurses documented bruises covering her entire body. Victim D's father told police the next day that his daughter was still unconscious, and given Youngmark's history of violence toward her, he believed Youngmark had assaulted her. **The case was continued pending further information or leads, but was never charged.**

**5/27/98 Arrest Case 15:** Police were dispatched to a fight, and a witness informed them that Youngmark, who police knew had an outstanding warrant against him, was inside. Police entered the residence and arrested him.

**6/2/98 Hearing Case 15:** Judge Mabley did not revoke Youngmark's probation pending action on Case 16 in Washington County.

**6/5/98 Hearing Case 16:** Washington County Judge David Doyscher released Youngmark on the condition that he have no contact with Victim D.

**6/5/98 Second A&D order Case 15:** An A&D was issued after Youngmark violated his probation by failing to complete chemical dependency treatment, violating the no contact order, and being terminated from the domestic abuse program for excessive absences.

**8/10/98 Plea hearing Case 16:** Youngmark pleaded guilty, and Washington County Judge Susan Miles released him on the condition that he cooperate with his pre-sentence investigation (PSI).

**8/12/98 Probation violation hearing Case 15:** Youngmark admitted to violating his probation, and Judge Peter Albrecht revoked 170 days of his probation with credit for 79 days served.

#### **Case 18: Fifth degree domestic assault\***

**10/10/98 Minneapolis police report:** Victim E reported to responding officers that her grandson, Youngmark, struck her in the chest with his fist and ripped her telephone out of the wall. Her son, Victim F, witnessed the assault and called the police. **The case was never charged.**

#### **Ramsey County Civil Case B**

**10/13/98 Ramsey County harassment restraining order (HRO) petition:** Ramsey County Referee Manuel Cervantes granted a temporary ex parte HRO against Youngmark on behalf of a couple and their daughter (Victims G, H, and I). The petition stated that Youngmark made threatening phone calls to the family and assaulted them on 10/10/98. WATCH could not find any information on the family's relationship to Youngmark.

**10/16/98 Outcome Case 16:** Washington County Judge Miles **stayed the imposition of Youngmark's sentence** and placed him on supervised probation for five years under the following conditions: complete psychological and chemical dependency evaluations and pay an \$85 fine. The prosecutor was Eric Thole, and the defense attorney was Christine Funk.

**10/19/98 Outcome Civil Case B:** Ramsey County Referee Cervantes granted Victims G, H, and I a one-year HRO.

#### **Hennepin County Civil Case C**

**10/28/98 OPP petition:** Judge Stephen Aldrich granted Youngmark's grandmother, Victim E, a temporary ex

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*parte OFP* against Youngmark. The petition cited the October 10 assault (Case 18) and Youngmark's assault on an uncle, Victim J.

**Case 19: Violation of restraining order (gross misdemeanor)**

*11/4/98 Hennepin County criminal complaint:* Victim K called police to report that Youngmark, his cousin, approached him while he was sitting in his car and broke the passenger side window of his car with a bat. At the time, there was an active court order from Ramsey County prohibiting Youngmark from having any contact with Victim K. **Youngmark had fled the scene before police arrived.**

**Case 20: Violation of an order for protection\***

*11/18/98 Minneapolis police report:* Youngmark's uncle, Victim L, told responding officers that Youngmark called the house where he lives with his mother, Victim E. Youngmark threatened them, saying, "all of you mother\*\*\*\*ers better watch your back" and then hung up. An *ex parte OFP* was in effect prohibiting Youngmark from contacting Victim E. **The case was never charged.**

*11/24/98 Outcome Civil Case C:* After he failed to appear for the hearing, Referee Susan Cochrane granted a one-year OFP to Victim E excluding Youngmark from her residence and prohibiting him from having contact with her or committing further acts of domestic abuse against her.

*1/27/99 First appearance Case 19:* Judge William Howard arraigned Youngmark and set bail at \$6,000 or \$2,400 cash with the following conditions: no contact with Victim K and remain law-abiding.

*2/2/99 Outcome Case 19:* **Youngmark pleaded guilty,** and Judge Aldrich sentenced him to 365 days in the workhouse with 355 days stayed for two years and credit for 10 days served. Conditions included: no contact with Victim K at his work or residence and pay restitution determined by probation.

*5/4/99 Revocation hearing Case 16:* Washington County Judge Miles reinstated Youngmark's probation, sentenced him to 30 days in jail with credit for time served, and ordered him to complete a chemical dependency evaluation while in custody.

**Case 21: Violation of an order for protection\***

*10/10/99 Minneapolis police report:* Victim E reported to

responding officers that Youngmark called her and became angry when she reminded him of the OFP. Prosecutor Martha Anderson requested statements from Victim E and her son, Victim L. Victim E cooperated but Victim L refused, stating he feared Youngmark would retaliate against him by damaging his property if he cooperated. **The case was never charged.**

*11/22/99 OFP extension Civil Case C:* Referee Cochrane granted a one-year extension of Victim E's OFP.

**Case 22: Two counts of disorderly conduct (misdemeanor) and one count of fifth degree assault (misdemeanor)**

*1/22/00 Newport police report (Washington County):* Officers were approached outside of a motel by a man who said he heard a woman screaming and a man yelling "you b\*\*\*\* you want more." Officers entered the motel room and found Victim M, Youngmark's girlfriend, kneeling on the floor with a bloody nose and swollen left eye. She told police that Youngmark punched her in the face, pushed her to the ground, and kicked her. Photos were taken of her injuries, and she was taken to the hospital. **Youngmark was arrested.** It is unclear from the case record when and why he was released from jail.

**Case 23: Fifth degree domestic assault\***

*3/31/00 Minneapolis police report:* Victim M stated that her live-in boyfriend, Youngmark, pressed a lit cigarette to her face. When he left the premises, she went to a nearby fire station and called 911. Responding officers noted burn marks under her left eye. **The case was never charged.**

**Case 24: Second degree domestic assault\***

*4/1/00 Minneapolis police report:* Victim M told responding officers that Youngmark blindfolded her, beat her, sprayed her with hair spray, and told her he was going to "light her up." She ran across the street to call for help, and **Youngmark fled before police arrived.** Officers called for an ambulance to take her to the hospital to treat the cut on her hand and burns on her face. **The case was recommended for further investigation, but was never charged.**

*4/27/00 Hearing Case 22:* Youngmark posted \$750 bail and a Washington County judge ordered him to have no contact with Victim M.

*8/19/00 Arrest Case 16:* Officers received information about an outstanding Washington County warrant and arrested Youngmark.

*8/25/00 Revocation hearing Case 16: Youngmark admitted to violating his probation and Washington County Judge Miles revoked his probation and sentenced him to 15 months in prison with credit for time served.*

*10/17/00 Probation violation hearing Case 19: Judge Tanya Bransford revoked the 355 days of probation that were stayed by Judge Aldrich in February 1999, ordered him to serve the prison time concurrent with the sentence for Case 16, and gave him credit for 86 days served.*

#### **Case 25: Theft\***

*4/18/01 Minneapolis police report: Victim N, who had been living with Youngmark's father (Victim O) for four years, told responding officers that his computer was missing. He further told them he had overhead a mutual acquaintance say Youngmark had stolen it. Two days later, police questioned Youngmark's father, who told them his son admitted to him that he sold Victim N's computer. They also questioned Youngmark, who was living at his father's house, and he admitted to the investigator that he traded the computer for cocaine.*

**4/30/01 Arrest Case 25:** Police arrested Youngmark on suspicion of theft. **The case was forwarded to the Hennepin County Attorney's Office, but was never charged.**

#### **Hennepin County Civil Case D**

*5/1/01 OFP petition: Judge Jack Nordby granted Victim N a temporary ex parte OFP against Youngmark. The petition stated that he and Victim O had kicked Youngmark out of the house because of his verbal and physical abuse. It also described an incident in which Youngmark woke Victim N up, punched him, and told him to get out of his dad's house.*

*5/9/01 Outcome Civil Case D: Youngmark denied the allegations and an evidentiary hearing was held. At the hearing, Victim N told the court about Youngmark's stealing his computer (Case 25). He also testified about how Youngmark threatened to kill him and burn down the house, and told others he was "going to see me floating down the river soon." Referee Brian Moehn granted Victim N a one-year OFP prohibiting Youngmark from having contact with him, entering his residence, and committing further acts of domestic abuse against him.*

#### **Case 26: Third degree arson (felony)**

*10/6/01 Hennepin County criminal complaint: Officers responded to a fire at the duplex where Victims N and O lived. An upstairs resident told officers that he suspected*

Youngmark. Officers found a note on the back door saying, "I will get you all." Five days later, investigators spoke with a neighbor, who confirmed watching Youngmark light a piece of paper that started the fire. **Youngmark was arrested on 10/14/01.**

*10/17/01 First appearance Case 26: Judge Myron Greenberg arraigned Youngmark and set bail at \$10,000.*

**1/2/02 Outcome Case 26: The case was dismissed on motion of the prosecutor,** Stewart Shapiro. The defense attorney was Nancy Laskaris.

#### **Case 27: Arson\***

*1/15/02 Minneapolis police report: Officers were aware of previous threats Youngmark made against his father and his prior arson charge when they responded to a second fire at Victim O's duplex. **The police report stated the case would be reopened if further information was found, but it was never charged.***

**1/28/02 Outcome Case 22: Youngmark pleaded guilty to one count of disorderly conduct, and the other two charges were dismissed.** Washington County Judge Thomas Armstrong sentenced him to 90 days with credit for 90 days served. The prosecutor was Frederic Knaak.  
**Case 28: Fifth degree assault\***

*3/20/02 Minneapolis police report: Victim P reported to responding officers that she was sleeping on the couch of her downstairs neighbor, Victim Q, Youngmark's friend, when she awoke to find Youngmark urinating on her. He began beating her when she tried to stop him. Victim P later woke up in a pool of blood and went to her apartment to call the police. Victim Q told officers he saw Youngmark standing over Victim P, who was covered in garbage, and tried to stop him, but was knocked unconscious. When he came to, he again tried to stop the assault, but Youngmark knocked him unconscious a second time. **The case was never charged.***

#### **Case 29: Fifth degree domestic assault (misdemeanor)**

*6/10/02 Minneapolis police report: Victim Q told responding officers that Youngmark, who had stayed at his apartment overnight, had assaulted him. He said he was sitting in his kitchen when Youngmark told him to get out of his own house. He refused, so Youngmark threw him out the door, punched him in the back of the neck, and scratched him. Victim Q fled to a neighbor's house to call police. **Youngmark was arrested at the scene**, and became extremely belligerent, threatening to harm Victim Q as soon as he got out of jail.*

*Continued on page 10*

## **Chronology of an Offender** *Continued from page 9*

**6/11/02 First appearance Case 29:** Judge Margaret Daly released Youngmark without bail under the following conditions: no alcohol or non-prescription drug use, no contact with Victim Q, and weekly contact with probation.

### **Hennepin County Civil Case E**

**6/11/02 HRO petition:** Judge Diana Eagon granted Victim Q a temporary *ex parte* HRO against Youngmark based on the June 10 assault (Case 29). She ordered Youngmark to have no contact with the victim and to refrain from further harassment against him.

**6/25/02 Outcome Civil Case E:** When the victim did not appear for the hearing, Referee Mary Lawson dismissed the HRO without prejudice.

**6/25/02 Outcome Case 29: The case was dismissed.** The prosecutor was Michelle Jacobson and the defense attorney was Mark Cosimini.

### **Case 30: Fifth degree assault (misdemeanor)**

**7/7/02 Minneapolis police report:** Victim P called the police to report that Youngmark had come to the apartment building where she lived upstairs of Victim Q and refused to leave. Responding officers ordered Youngmark to leave. An hour later, she again called police to report that Youngmark had returned, but was told that no squad cars were available. She called the police again a short time later to report that Youngmark was assaulting Victim Q inside his apartment. Officers arrived to an assault in progress and forced their way into Victim Q's unit because Youngmark refused to open the door. Victim Q told officers that Youngmark assaults him on a regular basis, and he does whatever Youngmark demands because he is so afraid of him. He told police that as soon as Youngmark had been released from jail for Case 29, he threatened the victim not to pursue charges or appear in court against him. **Youngmark was arrested at the scene.**

### **Hennepin County Civil Case F**

**7/9/02 HRO petition:** Judge Patricia Belois granted Victim Q a temporary *ex parte* HRO against Youngmark based on the July 7 assault (Case 30).

**7/10/02 First appearance Case 30:** Judge Lloyd Zimmerman arraigned Youngmark and set bail at \$2,000.

**7/22/02 Outcome Case 30: Youngmark pleaded guilty.** Judge Delila Pierce sentenced him to 90 days in the workhouse with 74 days stayed for one year and credit for

16 days served. Probation conditions included: no assaults, no contact with Victim Q, and only enter Victim Q's home to get belongings with a police escort. The \$50 fine was suspended due to financial hardship. The defense attorney was Thomas Harmon.

**7/23/02 Outcome Civil Case F:** A hearing was held and Referee Lawson granted Victim Q an HRO against Youngmark based on the June and July assaults (Cases 29 and 30).

### **Case 31: Violation of an order for protection (misdemeanor)**

**8/19/02 Minneapolis police report:** Officers responded to a call that Youngmark was at Victim Q's home in violation of a restraining order. **Youngmark was arrested at the scene.**

**8/20/02 First appearance Case 31:** Judge Isabel Gomez arraigned Youngmark and set bail at \$4,000 with the following conditions: no contact with Victim Q, make all court appearances, and remain law abiding.

**8/23/02 Outcome Case 31 and revocation hearing Case 30:** **Youngmark pleaded guilty** in Case 31, and Judge Anne McKinsey sentenced him to 74 days in the workhouse with credit for five days served. She also revoked 74 days of his sentence in Case 30 for violating the no contact order with Victim Q and ordered him to serve the two sentences concurrently. She fined him \$300, but stayed \$250 for one year. The prosecutor was Lee Wolf, and the defense attorney was Thomas Harmon.

### **Case 32: Violation of an order for protection (misdemeanor)**

**9/4/02 Minneapolis police report:** Officers responded to a call that Youngmark was at Victim Q's home in violation of a restraining order. **Youngmark was arrested at the scene.**

**9/5/02 Hearing Case 32:** Judge Jeanne Graham arraigned Youngmark and set bail at \$2,000.

**9/10/02 Outcome Case 32: The case was dismissed on motion of the prosecutor.** The defense attorney was Thomas Harmon.

**9/20/02 Warrant Cases 30 and 31:** Youngmark failed to report to the workhouse as ordered, and Judge McKinsey issued a warrant for his arrest.

### **Case 33: Two counts of violation of a restraining order (felony)**

*3/14/03 Hennepin County criminal complaint:* Youngmark was charged with two counts of violating a restraining order (felony) based on Cases 31 and 32, and a warrant was issued for his arrest. There is no information in the public record about what occurred between this date and the date of his first appearance (below) more than 10 weeks later.

*6/2/03 First appearance Case 33:* Judge Pamela Alexander arraigned Youngmark and set bail at \$2,500 with the condition that he have no contact with Victim Q. Two days later, he posted bail and was released.

### **Case 34: Two counts of fifth degree domestic assault (gross misdemeanor), two counts of fifth degree assault (misdemeanor and gross misdemeanor), and one count of disorderly conduct (misdemeanor)**

*6/15/03 Minneapolis police report:* Victim P told responding officers that Youngmark, her on-again/off-again boyfriend, "choked" her, struck her over the head, took her keys, and fled in her truck. The victim was taken by ambulance to the hospital.

### **Case 35: Two counts of domestic assault (gross misdemeanor), one count each of domestic assault-fear (gross misdemeanor), domestic assault-harm (gross misdemeanor), and disorderly conduct (misdemeanor)**

*6/16/03 Minneapolis police report:* Less than three hours after police responded to Case 34, a downstairs neighbor heard fighting and called police back to Victim P's home. When responding officers arrived, Victim P was sitting outside on the steps, and Youngmark was inside her apartment. After **Youngmark was arrested** and taken to the squad car, Victim P told police she was afraid of him and believes nothing she can do will stop him from coming into her apartment. Officers advised her to change her locks and file for an OFP.

*6/16/03 First appearance Case 35:* Judge Steven Pihlaja set bail at \$2,500 and ordered Youngmark to have no contact with Victim P.

*6/18/03 Interview Case 34:* A police investigator interviewed Victim P, who recounted a series of assaults and threats by Youngmark against her over a two-week period that began on June 3, 2003. In one assault, Youngmark poured starter fluid over her head and face and waved a lit cigarette in front of her saying, "you want to go up

now?" He assaulted her repeatedly, poking her in the eyes, stabbing her with a fork, biting her, dragging her by the hair, sexually assaulting her, and punching her. He also strangled her multiple times, causing her to become dizzy, nearly lose consciousness, and be unable to eat or speak for several days. Youngmark's mother was staying with them during part of this time, but he would not listen to her pleas to stop the assaults and grabbed her cell phone when she tried to call 911. At one point, Youngmark left the premises, but when he returned to find they had locked the door, he simply picked the lock and let himself in.

### **Hennepin County Civil Case G**

*6/18/03 OFP petition:* Judge Allen Markert granted Victim P a temporary *ex parte* OFP against Youngmark. The petition included information from Case 34.

*6/23/03 Outcome Case 35: The case was dismissed on motion of the prosecutor.* The defense attorney was Thomas Harmon.

*6/25/03 Outcome Civil Case G:* Judge Bruce Peterson granted Victim P a one-year OFP against Youngmark, who appeared at the hearing to deny the allegations, but agree to the order.

*6/30/03 First appearance Case 34:* Judge Richard Scherer continued this case with two other unrelated cases of first degree burglary and receiving stolen property. He set bail at \$10,000 in those cases.

*7/8/03 Hearing Case 33:* Judge Stephen Swanson also continued this case with Youngmark's first degree burglary and receiving stolen property cases.

### **Case 36: Violation of a restraining order (felony)**

*7/8/03 Hennepin County criminal complaint:* Victim P received a letter from Youngmark in which he asked her to forgive him, said he would marry her, and warned her not to talk to county staff or the police or to testify at any trial.

### **Case 37: Three counts of terroristic threats (felony), second degree assault (felony), fifth degree assault (gross misdemeanor), interfering with an emergency phone call (gross misdemeanor), domestic assault (gross misdemeanor), and first degree tampering with a witness (felony)**

*7/10/03 Hennepin County criminal complaint:* The charges in Case 37 resulted from further investigation of Case 34.

*Continued on page 12*

**7/11/03 First appearance Case 37:** Judge Marilyn Rosenbaum arraigned Youngmark and ordered bail to stand at \$50,000.

**7/15/03 Outcome Case 34: The case was dismissed on motion of the prosecutor,** Kathryn Rygh. The defense attorney was Thomas Harmon.

**8/7/03 First appearance Case 36:** Judge Phillip Bush set bail at \$25,000 and ordered Youngmark to have no contact with Victim P. Youngmark posted bail and was released.

### **Case 38: Terroristic threats\***

**8/25/03 Minneapolis police report:** Victim P called police to report that a mutual acquaintance had received a letter from Youngmark sent while he was in jail for assaulting Victim P. The letter said, "If I go to prison, I promise one thing, \*\* [Victim P] will pay for every f\*\*\*ing day I suffer," and "they can't lock me up forever so I hope she keeps that in mind so you can relay her this message." Officers learned Youngmark had also threatened Victim P during a call to another mutual acquaintance. That witness told police Youngmark said "he was gonna go over there and there was going to be some fireballs going," which the witness thought was "a threat to burn down her place or something." Victim P also interpreted that comment as a threat to burn down her house: she suspects that Youngmark burned down his father's house (Case 27).

**The case was referred to the Hennepin County Attorney's Office, but was never charged.**

**9/2/03 Plea hearing Cases 36 and 37:** Youngmark pleaded guilty to violation of a restraining order in Case 36 and one count each of terroristic threats and interfering with an emergency telephone call in Case 37.

**9/24/03 Outcome Cases 33, 36, and 37:** Judge Ann Alton sentenced Youngmark on Cases 36 and 37 to 33 months in prison with credit for 104 days served on condition he not use alcohol or controlled substances and have no contact with the victim. The sentences, to be served concurrently, were upward departures from state sentencing guidelines. **Case 33 was dismissed on motion of the prosecutor,** Fred Karasov. Krista Bettinger was the prosecutor for Cases 36 and 37, and Thomas Harmon was the defense attorney for all three cases.

### **Case 39: Third degree assault (felony)**

**8/6/08 Hennepin County criminal complaint:** Officers responded to a report of someone (Victim R) lying face

down on a street corner. They observed a lump on Victim R's forehead and bruising and swelling on her arm. When paramedics arrived, they told the officers that Victim R had what appeared to be severe chemical burns on her breasts and back and a cigarette burn on the back of her neck. She was taken to the hospital for treatment, where her injuries were also photographed.

**8/7/08** While talking with her child protection worker, Victim R made statements that caused the worker to call police out of concern for Victim R's safety. Police went to Victim R's residence and heard voices inside the apartment, and had the landlord open the door when no one would answer it. Youngmark was inside with Victim P, who had sustained more injuries to her face since the assault the day before. **Youngmark was arrested.**

### **Hennepin County Civil Case H**

**8/7/08 OFP petition:** Judge Belois granted Victim R a temporary *ex parte* OFP against Youngmark. The petition included information from Case 39.

**8/28/08 Outcome Civil Case H:** When the respondent appeared at the hearing, but Victim R did not, Judge Patricia Karasov dismissed the OFP.

**11/5/08 Plea hearing Case 39:** Youngmark pleaded guilty and a pre-sentence investigation was ordered.

**12/1/08 Outcome Case 39:** Judge Toddrick Barnette sentenced Youngmark to 32 months in prison stayed for five years. His probation conditions included: 250 days in the workhouse with credit for 117 days served, anger management at the probation officer's discretion, chemical dependency evaluation/treatment, cognitive skills training at the probation officer's discretion, psychiatric evaluation/treatment at the probation officer's discretion, no drug/alcohol use and random testing, and supply a DNA sample. The prosecutor was Judith Hawley, the defense attorney was Sarah Hauble, and Erica May was the probation officer.

### **Conclusion**

During the course of more than two decades, Scott Youngmark has assaulted and threatened at least 18 people and in almost half the cases he was never charged with a crime. When Youngmark was arrested or charged, he threatened the victims not to cooperate with law enforcement or prosecutors, a strategy that worked to his advantage, and led to nine cases being completely dismissed for "lack of evidence."

Because the circle of Youngmark's victims is so wide, many know each other and know of the threats Youngmark has made and carried out. They have seen him ignore court orders with impunity, and suspect he has committed many more crimes, including assaults and arson, for which he has never been arrested or charged. One victim told police she believed there was nothing she could do to prevent Youngmark from coming into her home. Youngmark has assaulted her and other people she knows many times, taken her keys and her car, threatened to burn down her house, and picked her locked doors, giving her every reason to believe he would do these things again if it suited him.

When judges did order him to jail or prison, they most often stayed the sentence and placed him on probation, which he freely violated. His most recent case, in 2008, a third degree felony assault against an intimate partner, again resulted in a stayed prison sentence, and as of this writing Youngmark is free. By failing to appropriately sentence Youngmark, the court effectively sentences his victims to continued vicious assaults. If the justice system cannot provide the protections offered by our laws and courts, where can victims turn?

## WEBINAR TRAINING

Join WATCH and court monitoring groups around the country on Thursday, May 28 at 11:30 a.m. for a one-hour, web-based training. In *Court Monitoring 101*, you will learn the philosophy and basic components of a successful program to monitor your courts and provide feedback to improve how cases are handled. Contact Anna at [alight@watchmn.org](mailto:alight@watchmn.org) for more information or to register, or go to [www.watchmn.org](http://www.watchmn.org).

## BECOME A WATCH VOLUNTEER

WATCH is offering a training session for new volunteers on Saturday, June 6 and again on Saturday September 12 from 10 a.m. to 4 p.m. in Minneapolis. Volunteers gain extensive information about violence against women and the court system, receive a comprehensive training manual, and become court observers with WATCH. You can volunteer as often as every week or just once each month, depending on your schedule. For more information or to arrange an interview, contact Anna at [alight@watchmn.org](mailto:alight@watchmn.org). Visit [www.watchmn.org](http://www.watchmn.org) for more information about court monitoring and volunteering or interning with WATCH.

## What's new *Continued from page 1*

event will be held at the Dakota Jazz Club and Restaurant in downtown Minneapolis from 4:30 to 6:30 p.m. (program starts at 5:15 p.m.) New this year is the invitation to stick around for some great local music afterwards. Call 612-341-2747 for more information or to RSVP.

### Board changes

We want to thank outgoing board chair Anita Patel for giving so generously of her time and talents to WATCH in the past three years. Through her role on the governance committee and later as vice chair and chair of the board, Anita helped lead WATCH forward in meeting its organizational diversity goals, engaging the board and staff in addressing racism and white privilege, and advancing board leadership, especially among young women. Anita was promoted to director of racial justice and public policy at the YWCA of Minneapolis last winter, and her added responsibilities have left less time for volunteering with WATCH. We will miss her leadership and vision and look forward to working with her more informally. We wish her all the best in her new position.

### Staff changes

Jonathan Williams left his intern position at WATCH in April. During his internship, which started last June, Jonathan covered a myriad of tasks for WATCH. He monitored court cases on a regular basis, assisted with office tasks, compiled data for the 2009 strangulation project, helped train new volunteers and interns, assisted with the coordination of volunteers, and attended monthly board meetings. Thanks Jonathan.



At last year's Gala, WATCH received numerous gifts in honor of our founder Susan Lenfestey. Since then, additional gifts in her honor have been made by Mary and John Ursu and Glenda and Ron Dewberry Rooney.

# Volunteer Notes

✓ A woman was seeking an order for protection (OFP) on behalf of her niece, who was living with her. The respondent was the woman's sister and the girl's mother. The petitioner told the court the respondent had called her house and threatened to kill them both. She also said her niece had been raped and was pregnant by her stepfather, but that the girl's mother is siding with her husband, who has been charged with the crime and is in custody. The judge said the behavior described in the petition did not fit the definition of domestic abuse, but I am concerned for the girl's safety and well-being because the OFP was denied.

✓ Three male attorneys were talking while waiting in the courtroom. A female attorney walked in and said something to one of them about going into the judge's chambers to discuss the case. As she walked away, he called her a bitch, and they all laughed.

✓ Domestic violence court always seems so chaotic, and today was no exception. While one defendant was pleading guilty, which I view as a serious event, a probation officer was talking to an attorney, a defense attorney was checking in with the clerk, and a prosecutor was discussing a case with a person in the gallery.

✓ I was at an omnibus hearing for a case with two felony counts of third degree criminal sexual conduct. In the complaint, a woman had woken up to find the defendant was raping her, and he later penetrated her with a beer bottle after pouring beer over her. The judge acted very blasé—almost like he was discussing a traffic violation, not a rape. There was no mention of the victim or what happened to her. Then they accepted a plea agreement that reduced the charges to one count of fifth degree criminal sexual conduct, a gross misdemeanor, and the judge conditionally released the defendant.

✓ I monitored a sentencing at the Government Center for a first-degree criminal sexual conduct case where the victim was barely 12 years old. The judge mentioned that if the victim had been 13, the guideline sentence would be much lower (36 months instead of 144 months). The prosecutor stated that it didn't matter because the victim was only 12, but the judge gave a significant downward departure and only sentenced the defendant to 60 months. He said he believed the defendant was taking responsibility and showed remorse.

✓ The clerk in domestic violence court did not make the announcements regarding court rules before the hearings started. She eventually announced that anyone there for a hearing had to check in, but only after one of the defendants asked a deputy what he was supposed to do.

Not surprisingly, at least two cell phones rang while court was in session, disrupting the proceedings and adding to the chaos.

✓ Before a sentencing began, I overheard the prosecutor say that she did not want to violate the victim's right to be present at the defendant's sentencing. Before going ahead with the sentencing, she called to verify that the victim did not want to submit an impact statement. I appreciated seeing the prosecutor recognize that it is part of her job to make sure the victim's interests and rights are respected.

✓ At a sentencing hearing today, the judge specifically ordered domestic abuse counseling as one of the defendant's probation conditions. Often judges order anger management or alcohol treatment/counseling or even generic counseling. Those programs don't address the violence, and this defendant has a history of domestic abuse.

✓ During a bail hearing, the judge told the defendant that the victim did everything she could to get him released; including saying the abuse didn't happen. Then the judge stressed that he would not release the defendant because he was a threat to public safety. He repeated to the defendant that he was staying in jail because of him (the judge) *not* the victim.

✓ During a sentencing in a sexual assault case, I was surprised to hear the judge refer to budget cuts to the justice system when giving his reasons for issuing a shorter sentence than the one recommended in the state guidelines.

✓ Whenever I am in domestic violence court, I am struck by how the victim advocates do such a good job of checking in with people as soon as they enter the courtroom and how they take the time to explain things and answer questions from victims and the public.

# Thumbs up/thumbs down

Thumbs up to Patrick Greene, a tenacious Texan who alone succeeded in the removal of "wife-beaters.com" from the Internet. The website, owned by James Doolin, sold white tank tops, commonly referred to as "wife-beaters," and gave a discount to any purchaser who could prove they had been convicted of domestic violence. Greene tried, without success, filing complaints about it with the FBI, Texas attorney general, and the Better Business Bureau. He eventually contacted the website hosting company Cbeyond, which agreed that Doolin's website violated Cbeyond's policy prohibiting "objectionable information of any kind" and removed it. Greene plans to continue to monitor the Internet to see if the website reappears. WATCH applauds Greene for taking a stand against "wife-beaters."

Thumbs up to the Minnesota Court of Appeals for reversing the decision of the Hennepin County District Court in the Prodochee Williams case. A district court judge dismissed the first-degree criminal sexual conduct charge against Williams. The judge ruled that because "half-brother" was not specifically listed in the law's definition of "significant relationship," Williams, 33, could not be charged under that section of the statute for sexual contact with his 15-year-old half-sister. (The Autumn 2008 issue of the *WATCH Post* includes a "thumbs down" to the judge for his ruling.) The state appealed.

The Appeals court ruled that the term "brother" in the statute includes half-brothers, citing definitions in several standard and legal dictionaries. The court concluded that excluding "half-brother" from the definition of "brother" "would both be illogical and contrary to the overall statutory purpose of prohibiting intra-family sexual contacts." WATCH is heartened by the court's reasoned response.

Thumbs up to the United States Supreme Court for upholding the conviction of Randy Edwards Hayes of West Virginia on federal weapons charges. In 1994, Hayes was convicted of a misdemeanor assault for assaulting his then-wife. Two years later, Congress passed a law banning defendants convicted of domestic violence crimes from possessing firearms. Police who responded to a domestic abuse 911 call 10 years after Hayes's conviction, however, found a rifle in his possession and learned he had kept four other rifles during that period. He was subsequently charged with violating the 1996 federal law.

West Virginia, like nearly half the states, does not have specific misdemeanor domestic violence laws, and the case turned on whether that was a requirement to enforce the federal law. The court ruled 7-2 that state laws do not have to include specific domestic violence language to fall under the federal domestic violence gun ban. Justice Ruth Bader Ginsburg said that excluding domestic abusers who are convicted under generic laws "would frustrate Congress' manifest purpose."

Thumbs up to the Obama administration for putting equity for women at the top of its agenda. The first bill Obama signed into law as president was the Lilly Ledbetter Fair Pay Act, which amends Title VII of the 1964 Civil Rights Act. It restores a longer statute of limitations for filing lawsuits based on wage disparities. In a second decision, the president established the White House Council on Women and Girls. Its goal, according to Council executive director Tina Tchen, is "...that every agency of government...thinks about the impact of [its] policies on women and girls." Its first-year priorities include improving economic security and health care, preventing violence against women, and addressing work/family balance.

## Court monitoring to address sexual assault

WATCH is partnering with the Minnesota Coalition Against Sexual Assault (MNCASA) to bring information on court monitoring to sexual assault programs and multi-disciplinary teams across the state. There are Sexual Assault Model Response Teams (SMART) in several Minnesota jurisdictions, and they use an eight-step protocol process to develop victim-centered policies and procedures for handling sexual assault cases.

To start with, WATCH is providing no-cost webinars to sexual assault advocacy programs and SMART teams (the first was held May 11), presenting a session at the SMART teams' annual meeting in July, and conducting

a conference presentation at the Coalition's annual conference in September. In addition, WATCH will be working in collaboration with MNCASA and a SMART team in Rice County to explore how court monitoring can support their efforts to improve sexual assault case outcomes for victims. An advocacy programs in Marshall has also expressed interest in court monitoring strategies.

WATCH has been monitoring sexual assault cases in Hennepin County for more than 15 years and we are pleased to support such efforts in Minnesota and around the country. For more information, please contact Dawn at [ddougherty@watchmn.org](mailto:ddougherty@watchmn.org).

## **WATCH**

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### **FORWARDING SERVICE REQUESTED**

**Executive Director:** Marna Anderson

**Staff:**

Sarah Coulter, Court Monitoring Coordinator  
Dawn Dougherty, National Project Director  
Anita Gopalaswamy, Community Outreach Coordinator  
Anna Light, National Outreach Assistant & Volunteer Coordinator  
Donna McNamara, Development & Communications Director  
Nashad Muse, Administrative Assistant

**Founder:** Susan Lenfestey

**Board Chair:** Sara Mushlitz

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## National training

Over the years, many programs in Washington state have contacted WATCH for information, training, and resources on court monitoring. Thanks to a generous grant from the Bush Foundation, executive director Marna Anderson and national project director Dawn Dougherty were able to travel to Seattle on March 19 to offer a free day-long training. Over 40 people gathered to learn about recruiting and training volunteers, working with court personnel, gathering and analyzing data, and writing and releasing reports.

Participants included staff and volunteers from the Pierce County Commission Against Domestic Violence, King County Sexual Assault Resource Center, City of Seattle Human Services Department, the National Crime Victim Law Institute,

the Department of the Navy, and several domestic violence and sexual assault programs. Special thanks to the Washington Coalition of Sexual Assault Programs and the Washington State Coalition Against Domestic Violence for help with logistics and advertising.

The training generated some positive feedback. One participant said, "I liked the ideas for small projects that we can start with if we are unable to start big." Another participant noted, "I appreciated hearing not only the experience of WATCH in Minnesota, but also examples of what other communities have done."

You can join WATCH in Brainerd on Thursday, May 28 at the Minnesota Office of Justice Programs' annual crime victim's conference for our

workshop "The Impact of Minnesota's Felony Domestic Strangulation Law." WATCH will also present on "System Accountability through Court Monitoring" at the Battered Women's Justice Project conference on June 22 in St. Paul. Finally, WATCH has been asked to participate in the National Solutions Summit sponsored by the Mary Byron Foundation in November 2009, in Louisville, Kentucky. The goal of this national summit is to inspire communities to learn about successful programs that they can replicate. The Mary Byron Foundation awarded WATCH a *Celebrating Solutions* award in 2007 for outstanding work to end violence against women.

For more information on these or other trainings, contact Dawn Dougherty at [ddougherty@watchmn.org](mailto:ddougherty@watchmn.org).