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Justice Isn't Blind: A Review of Chicago Appleseed's Court-Watch Program

By

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Abstract

This report analyzes and evaluates the court-watching program that is a component of the Chicago Appleseed Center for Fair Courts. The Cook County Court System is rife with racial bias, and disproportionately sets up low income and non-white people to fail. The practice of court-watching as a tool of participatory defense presents the opportunity to intervene in a system that works to uphold inequitable distributions of power. Chicago Appleseed represents one possible model, and this paper analyzes that model against other prominent court-watching programs. Through textual analysis and consultation with subject matter experts, this report both explores how court-watching functions within the scope of the broader legal system and lays out a series of recommendations for possible future directions that Chicago Appleseed could take in their own program.

Introduction

In the fight for prison abolition, participatory defense campaigns are one of the most powerful strategies to secure and defend the freedom of criminalized people in the face of the prison industrial complex. In her seminal work, *Are Prisons Obsolete?*, writer and activist Angela Davis (2003) popularized the term “prison industrial complex” to describe the ways in which, over the course of the last few decades, the U.S. prison system has expanded into a many-headed hydra, backed by corporate involvement, spurred by prison labor, until its inextricable involvement with vast amounts of capital mirrored the emergence of the military industrial complex. This hydra encompasses not only the astronomical rates of imprisonment that place the U.S. at the forefront of the world’s prison population (Statista 2023), but also the myriad layers of red tape and trap doors, many of those layers embedded in the complexity of the U.S. court system, that keep people entangled with the justice system long after any period of incarceration has ended.

To make matters worse, many of the convoluted courtroom proceedings that can have devastating consequences for people happen behind closed doors, with no one watching, and with no accountability for the judges and prosecutors that are too often driven by the same biases that inform the system as a whole. This is why participatory defense campaigns can provide a bulwark against these injustices. Abolitionist organizer, educator, and writer Mariame Kaba (2021) defines participatory defense campaigns as “grassroots efforts to pressure authorities, attend to prisoner needs, and raise awareness and funds” (110). One such effort is the practice of court-watching, wherein regular people, with or without formalized legal training, sit in on courtroom proceedings to document any instances of misconduct and to gather data on trends

and patterns that inform a broader understanding of prison overpopulation and the demographics of mass incarceration (Court Watch ALC, n.d.).

Over the course of this project, I have been working with the Chicago Appleseed Center for Fair Courts to evaluate and uplift their own robust court-watching program. Chicago Appleseed focuses on improving both civil and criminal court processes for people with and without legal representation, working in tandem with other direct service providers and community organizations in Chicago (chicagoappleseed.org). Over the course of this report, I will provide a theoretical basis for the value of court-watching as a practice, build out a comprehensive set of criteria against which to measure Chicago Appleseed's program, and share my recommendations for where their program could grow in the future. My overarching goal is to raise visibility for the important role court-watching can play in research and policy advocacy and, to borrow the Abolitionist Law Center (ALC) Court Watch Program's slogan, to get more "eyes on the courts" and to foster an understanding of the ways in which participatory defense can function as a powerful intervention in the forces of injustice.

Literature Review

The Power of Participatory Defense

Participatory defense as an abolitionist model has expanded from a single hub in San Jose into a national network of at least 40 mutually supportive local hubs across the country (Jayadev and Moore 2022). In response to the perspective that abolitionists should not be overtly focused on freeing individuals when all prisons need to be dismantled, Mariame Kaba (2021) states that "this argument renders people who are currently in prison invisible, and thus disposable, while we are organizing towards an abolitionist future" (110). She argues that each individual case in

which participatory defense intervenes is emblematic of the conditions that millions behind bars face every day.

Ruha Benjamin (2022) echoes this idea of the individual as collective in *Viral Justice: How We Grow the World We Want*. She reconceptualizes a virus as something we should learn from, rather than fear, and positions it as a “microscopic model” of how we should be spreading justice, person to person. Based on this model, she proposes “a microvision of social change...which we seed in the present as alternatives to our fracturing system” (11). Similarly, in *Emergent Strategy: Shaping Change, Changing Worlds*, adrienne maree brown (2017) advances the idea of shifting focus from “mile wide inch deep” movements to “inch wide mile deep” movements and defines “emergent strategies” as “ways for humans to practice complexity and grow the future through relatively simple interactions” (11). The philosophies of emergent strategy and viral justice are key to understanding the potential of participatory defense as a tactic.

In stark contrast to the accountability that participatory defense brings from outside the system, many reforms stemming from within the system often only serve to further entrench the power of the prison system and expand its reach (Kaba 2021, 111). For example, the mandatory sentencing laws created in the mid-1970s were ostensibly intended to address the arbitrariness and inherent racism in sentencing by implementing similar sentences for similar crimes. Instead, they removed the opportunity for incarcerated people to be evaluated at regular intervals to determine release readiness, which firmly shifted the main purpose of prison “from rehabilitation to punishment” (Burton 2017, 48). Even the position of public defender, which was instituted to ensure fair and equal representation for anyone, regardless of income and access, often replicates the inequities that drive someone to need a public defender in the first place. Public defenders are

plagued by a lack of resources and are incentivized to keep the docket moving, which has led to understandable distrust from defendants who have no reason to rely on the person supposedly acting in their best interest (Jayadev and Moore 2022).

When people who need public defense try to engage in isolated resistance, it can often make things worse for them. Participatory defense, on the other hand, has the potential to connect and amplify their voices. Jayadev and Moore (2022) list the types of participatory defense that families of incarcerated individuals engage in with the De-Bug participatory defense hub in San Jose, including dissecting police reports, locating defense evidence, creating social biography videos to paint full portraits of their loved ones beyond a case file, and packing court dates with community presence. Jayadev and Moore state, “from a movement-building perspective, the case outcome is not the only goal. Instead, it is equally or more important that the process transform each individual’s sense of agency” (83). Acts of solidarity such as these equip people with the ability to ask more of public defense lawyers as well as contribute their own insights.

That transformation of agency can be a powerful bulwark when the justice system as a whole so often works to strip agency from people at every point in the judicial process. In her piece “Participatory Justice in Social Rights Adjudication,” Sandra Liebenberg (2018) states that “participatory justice signals respect for people’s human dignity and autonomy in the face of the power of the government to confer, withhold or reduce vital social benefits” (628). This governmental power manifests itself most frequently in the courtroom, where human dignity and autonomy are thrown up for debate in all types of cases, from domestic violence courtrooms, to probation hearings, to criminal proceedings.

The Courtroom as Site of Oppression

Myriad ubiquitous courtroom proceedings create what Nicole Ganzalez Van Cleve (2022) calls a “theater of racial degradation.” Even low-level criminal justice system involvement paves the way for “state-sanctioned abuse and humiliation of people of color under the guise of due process” (137). For example, when describing the behavior of probation officers during probation hearings, Van Cleve identifies the ways in which the officers focus on the defendants as social burdens rather than discussing the alleged criminal offenses, making the defendant’s real crime “being guilty of the moral failing of being a ‘mope,’ a defendant that is akin to ‘trash’ in the ocean” (151). These types of sweeping, moralistic judgments are the kinds of patterns that court-watchers can effectively note and catalogue as evidence of systematic courtroom discrimination.

Sweeping judgments and preconceived notions too often form the backbone of how judges conduct themselves in court proceedings. A 2022 joint report from Chicago Appleseed and the Chicago Council of Lawyers revealed the layers of issues that play out in the domestic violence courts of Cook County. Despite the fact that interviews with numerous domestic violence service providers and advocates support the fact that survivors of color encounter domestic violence at rates higher than the general population, the barriers they face once they are in the courtroom makes it clear that courtroom actors hold “inherent assumptions that American-born white women are the ‘victims’ and that people of any other race or gender are the ‘perpetrators’” (26). The racial disparities are further underlined by the Chicago Police Department arrest rates. Between July 1st, 2020 and July 1st, 2022, 73% of the arrests made were of Black or “Black Hispanic” citizens. Those disparities continue to play out in courtroom processes where judges make racist assumptions about case outcomes (Monkus et al. 2022).

Those outcomes are made even worse by the bureaucratic chaos that so often plagues courtroom proceedings. In “Uncivil Procedure: How State Court Proceedings Perpetuate Inequal,” Hannah Lieberman (2016) points out that court dockets are often overburdened and high-volume, and that the harmful consequences fall to defendants when “judgments are entered without meaningful scrutiny of their substantive or procedural correctness” (258). For example, eviction rulings frequently lead to homelessness and judgments that appear on credit reports can lead to prospective employers and landlords to turn down applications for jobs or housing (Lieberman 2016). Van Cleve (2022) describes the court professionals who decide on these rulings as “institutional gatekeepers” who “reimagine defendants that make up their caseload as welfare abusers rather than as true criminal threats” (146). The image of the courts as a gate whose locking brings about all manner of consequences further crystallizes the fact that the courtroom serves as a damning microcosm to the inequities that shape society more broadly.

The lack of “meaningful scrutiny” and judicial bias at play are exacerbated by the lopsided representation that are a hallmark of civil cases. A study from the National Center for State Courts revealed that only one in four of the cases analyzed had attorneys on both sides. Furthermore, the courtroom atmosphere itself is frequently crowded and noisy. Clerks’ rapid-fire roll call, coupled with defendants’ names often being mispronounced, can result in defendants’ confusion and subsequent lack of response, leading to further negative consequences for them (Lieberman 2016). In chaotic courtroom proceedings where information may not be clearly communicated, court-watching can be a mechanism to catalogue the external factors that can be one piece of the prevention of due process.

Court-watching as Intervention

Court-watching has the powerful potential to act as a deterrent to judicial and prosecutorial misconduct. While collecting data on court-watching, Van Cleve (2022) describes the way in which courtroom officials greeted the presence of court-watchers with hostility that made it clear they were aware that the onlookers represented a level of oversight and accountability. Court-watching as an accountability practice has a long history. For example, in 1973, a court-watching program in Massachusetts were responsible for changing the way in which judges were appointed, putting an end to the “country club” system in which the governor nominated judges who were then confirmed by an executive council and served for life. Beyond affecting immediate reforms, the court-watchers generated public scrutiny on the lower criminal courts in Massachusetts which had been functioning unnoticed in their system of “assembly line justice,” as a report in 1967 called it. (Winsor and Dunne 1973).

In addition to court-watching’s potential in raising public awareness of unjust court practices, it is also an effective way to measure whether courts are abiding by the tenets they are supposed to be following. For instance, observations of Nashville’s General Sessions Courts in September of 2016 to determine the manner in which right to counsel is administered in misdemeanor courts revealed numerous unethical practices taking place within one single day in the courts. The lawyers who were volunteering to court-watch noted that judges in the courtrooms they observed frequently did not advise defendants of their right to counsel, and that defendants did not waive their right to legal representation in a way that could be characterized as “knowing, voluntary, and intelligent.” Their observations provided context and in-depth description to the statistic that between 2015 and 2016, approximately 80% of defendants

charged by citation in the Nashville courts were not represented by a lawyer when their charges were resolved (Hanlon et al. 2017).

In this particular case, while the court-watchers were primarily watching for breaches of right to counsel, they also made note of the fact that when judges imposed fines, fees or costs on the defendants, they rarely made any effort to determine if defendants had the financial means to make those payments (Hanlon et al. 2017). This monitoring of fees imposed is another key point of intervention for court-watching programs. The Court Watch NYC program undertook to do just that after New York State passed bail reform legislation in 2019. The organization court-watched for the first 100 days of the implementation of these reforms and found a number of harmful trends that could have, without the magnifying eye of court-watching, been swept under the rug of celebrating modest reforms that were “band-aid solutions that failed to fully dismantle the fundamentally oppressive logic of our current systems” (Court Watch NYC 2020, 3).

These 100 days of court-watching revealed that Black New Yorkers were far more likely to be arrested, charged with bail-eligible offenses, subjected to bail and released under arduous conditions, and less likely to be released on their own recognizance than white New Yorkers. Furthermore, judges and prosecutors frequently ignored the bail reforms altogether or found ways to circumvent them, such as setting partially secured bond amounts above both the cash bail and bail bond amounts. In nearly half of the cases observed in 2020, judges set bail exceeding \$10,000 (Court Watch NYC, 2020). Court-watching can be one of the most effective tactics of unearthing and exposing troublesome trends such as these, because while court records are supposedly public, the burden of jumping through numerous bureaucratic hoops falls on the exploited party who is too often powerless when going head-to-head with institutionalized power (Albrecht and Filip, 2023). To return to Nicole Gonzalez Van Cleve’s (2022) analysis of the

routine injustices occurring in courtrooms all over the country, she poses the question: “How would these court professionals act if they knew that the public, higher courts, and the media cared about how justice was being served?” (149). It is this question that I will delve into over the course of this report, and that I will address in the next session.

Methodology

Overview

I have adopted a two-pronged approach in order to analyze and evaluate Chicago Appleseed’s court-watching program, which I will heretofore refer to as COEP, or the Court Observation and Education Program. I have evaluated COEP’s protocol using a set of standards based on a combination of a textual analysis of three different court-watching toolkits and a series of informal conversations with subject matter experts who shared their input on what makes a strong court-watching program.

I gained access to these experts through personal networks developed through my work at the Abolitionist Law Center (ALC) in Pittsburgh, where I was a volunteer court-watcher of probation hearings for a year and a half, through Chicago Appleseed’s recommendations, and through general outreach to other court-watching organizations. One of these experts is Dolly Prabhu, a staff attorney with ALC. Another is Sumayya Saleh, a senior attorney at the Civil Rights Corps. Both Dolly and Sumayya have utilized court-watch data in litigation, and have particular insight into the utility of court-watching for tangible legal reforms. Another expert is Nicole Gonzalez Van Cleve, the former Research Director of Chicago Appleseed Fund for Justice, who I have cited in my literature review. She is the author of “Crook County: Racism and Injustice in America’s Largest Criminal Court,” and is strongly outspoken on the

degradations of the courtroom experience, and the powerful role that court-watching can play. Lastly, I spoke with Madalyn Baldanzi, a long-time volunteer with Court Watch NYC with first-hand knowledge of the way in which Court Watch NYC transitioned from a funded program to fully volunteer-run. While my conversations with these experts will be informal and only loosely structured, a few key questions that I touched on are: (see Appendix C for full list of questions)

1. What are the most important components of a successful court-watching program?
2. What are some of the benefits of a legal nonprofit having access to court-watching data?
3. What do you see as the underlying framework for court-watching?

After each interview with a subject matter expert, I performed a thematic analysis of the key points that came up in each conversation to build credibility and provide a solid foundation for the evaluative analysis that I present in this report. This grounded theory approach is the most thorough strategy for producing a holistic program evaluation because it will allow the first-hand experiences of court-watch experts to speak for themselves and will display a transparent roadmap to how I reached the conclusions that I did (Charmaz and Thornberg 2020).

The output of this report is a comprehensive program evaluation that also highlights and uplifts the vital work that Chicago Appleseed is doing in the field of court-watching. My information about COEP's programming comes from both public-facing and internal COEP documents, conversations with COEP staff, and my own attendance of a court-watching training session. I have triangulated these two primary sources of data: textual analysis of court-watching toolkits and COEP materials and conversations with subject matter experts. Although each method has flaws and limitations, by analyzing a broad range of perspectives and positionalities, I have provided a clear case for court-watching's value add to the field of research and policy advocacy.

Toolkits Utilized

The first toolkit I analyzed was from Dr. Van Cleve's "Crook County: Racism and Injustice in America's Largest Criminal Court." She defines the "nature and quality of justice" as comprised of public trust and confidence, accessibility, effective participation, responsiveness, and respect. These standards have been made concrete through the National Center for State Courts Trial Court Performance Standards (NCSC) (See Appendix A). Dr. Van Cleve adapted these standards to develop a code of conduct for the courts, which was then approved through the Chief Judge of Chicago.

There are several key aspects to Dr. Van Cleve's training methodology. One such aspect is anonymity in the courtroom, as court professionals will sometimes "perform" for the watchers which does not present an accurate image of how court proceedings usually play out. Another is the creation of a common metric of evaluation in order to establish inter-rater reliability between court-watchers, meaning the measure of agreement between raters or observers in their assessment of a phenomenon. Dr. Van Cleve argues for a creation of a common metric of standards for both legal and judiciary professionals, or "insiders," and researchers and court-watchers, or "outsiders." She suggests building court-watch observation forms based off of the aforementioned NCSC standards, and designing the forms to have both structured and semi-structured sections that encourage "thick" description of events witnessed (prolific description of the observer's own subjective interpretation and reaction to the events). Finally, she emphasizes the importance of standardized training and procedure, which are the best safeguards against inconsistencies in court-watch data.

The next toolkit I drew upon was published by the Community Justice Exchange (CJE), a national hub dedicated to developing and sharing strategic organizing practices aimed at abolishing the prison industrial complex (Community Justice Exchange, n.d.) This toolkit takes a more macro view of court-watching as a practice. They highlight the importance of first establishing a goal for any given court-watching campaign, and then identifying the targets, allies, opponents, and constituents of that campaign. They also note that the models they lay out are not mutually exclusive, and an organization can be employing multiple models simultaneously. In addition, CJE urges anyone starting a court-watch program to consider the outputs, content, and specifics of the data being created. They also strongly suggest speaking with people with direct experience from multiple vantagepoints of courtroom proceedings before designing a court-watch protocol.

The first model they describe is the exploratory research model, in which court-watching is intended to help outline the specifics of court practices and processes, such as watching hearings to see what types of bail are being set. The second is the civic engagement model, in which the focus is on the experience of the court-watchers and their own political development as an “on-ramp” to engaging more deeply with movement work. An example the Community Justice Exchange provides is the New Orleans Safety and Freedom Fund (See Appendix B). The third model is the individual support model, which is intended to show that the accused person in an individual case has community ties and support. The CJE notes that this model should only be undertaken with the consent and encouragement of the accused individual and their lawyer. An example they give is the Silicon Valley De-Bug Program (See Appendix B). The fourth is the accountability campaign model in which court-watch programs ensure court systems are accountable for implementation of recent reforms. The Chicago Appleseed program exemplified

this model in the last year when they were called upon to monitor the implementation of the Pretrial Fairness Act.

The fifth model is the advocacy campaign model, in which court-watchers watch for a particular issue as part of a broader campaign to demand change. The last model that CJE outlines is the system monitor model, which is designed to be ongoing and holistic. In this model, volunteers observe court shifts on a steady schedule, and the information collected could focus on a rotating series of issues and primary players. One component of this model, aside from the creation of robust qualitative data, is that court actors know that community members will be present on a regular basis which may create greater accountability. CJE cites the example of Court Watch NOLA (See Appendix B) where volunteer court-watchers wear bright yellow lanyards into the courtrooms to identify themselves.

The final toolkit I examined comes from the organization Survived and Punished, a prison abolition organization focused on criminalized survivors and the ways in which systems of punishment and the pervasiveness of gender violence are intimately interwoven (Survived and Punished, n.d.). Members of the organization Michelle VanNatta and Braulio Salcedo (2018) put together a “How to Start Your Own Courtwatch Program” step-by-step guide. There was a lot of overlap between their suggestions and Dr. Van Cleve’s training protocol, but a few key elements I drew from them are: thinking beyond court-watch programs to consider what other types of information you or your organization might need when pursuing a given end goal, such as interviewing people directly about their experiences with the courts or reviewing recently published court outcomes, urging court-watchers to strategize on how to fly under the radar if need be and disguise any visible markers of class and positionality, and consulting with attorneys

about the dangers that court-watchers may face if they have conviction histories, arrest records, or any immigration status issues.

VanNatta and Salcedo also provide questions that court-watchers may ask themselves when observing specific types of hearings, such as whether or not intimate partner violence cases are handled the same way as stranger violence cases, and in what way public safety risk ratings and portrayals of seriousness differ between the two, as well as comprehensive list of factors that volunteers may want to watch for in court:

“Comments from judges, attorneys, sheriffs, and other court personnel about gender, race, ethnicity, religion, and personal characteristics of defendants and alleged victims in cases; factors in determining whether a defendant is held in custody or able to access bond; use of electronic monitoring or GPS; child custody and visitation issues and histories of violence; caseloads of public defenders or court appointed attorneys; controlling images and stereotypes in, especially directed to African American, Native American, Latinx communities, queer communities, and trans/gender non-conforming people; is the event in question addressed as a single moment in time or is any history elicited or presented which may show impact of trauma or prior history of victimization or intimidation” (VanNatta and Salcedo 2018).*

Finally, they urge court-watch organizations to consider how other community organizations can work in tandem towards necessary change outside of the courtroom as well. There were many common themes between the resources I have used for this report, and those themes were further elaborated on in my conversations with people who have worked closely with court-watch programs and data.

Conversations with Subject Matter Experts

My first conversation was with Dr. Van Cleve. She explained that prior to Chicago Appleseed building a formalized court-watching program, the practice often comprised of law students going in to watch court proceedings without de-identifying themselves, which would completely change the judge’s behavior and the dynamics of the courtroom. For this reason, she

believes that law students can potentially make some of the worst court-watchers. As she outlined in her training documents, there needs to be some level of empiricism to a court-watch program. They should be targeted at judges that have histories of bad behaviors, and the court-watching should be done the same way every time to establish inter-rater reliability. Any legal variables in a courtroom that a lay person would not be qualified to analyze should be excluded, and the focus should be on things like treatment and temperament that anyone would be able to observe and identify.

This is why Dr. Van Cleve does not believe in using court-watch data in litigation, as she believes judges will simply “demean” the data and it will be dismissed by prosecutors. In addition to the anonymity element for volunteers, she also emphasized the need for people of color to be watchers because positionality of watchers matters, and different people will pick up on different elements of courtroom behaviors. My conversation with her reinforced the views she expressed in her training, and further crystallized the approach of empiricism and rigorous, standardized methodologies when building a court-watch program.

My next conversation was with Dolly Prabhu, a Staff Attorney at the Abolitionist Law Center. She sees court-watching primarily as a useful method of fact-gathering in the research process. Her views on court-watching’s role in litigation differs from Dr. Van Cleve. She acknowledged that while many judges will not see court-watch data as reliable data, it allows attorneys to get a foot in the door to file a lawsuit. She called it a “great backdoor way” to get information on constitutional violations occurring in courtrooms. Once a lawsuit is filed, lawyers like Dolly are able to use the court-watch data to know exactly what they are looking for and ask the courts for their data and file for discovery, which then yields reliable, empirical data. Under

this methodology, the reliability of the court-watch data itself doesn't matter as much; it is court-watching's ability to prove a pattern that is the key element.

In addition to litigation, Dolly discussed the utility of court-watching for lobbying efforts. For example, if there were legislation about bail reform being debated, because of court-watch data, ALC attorneys would be able to say with confidence that while the laws in Pennsylvania around bail are pretty good, the judges just don't follow them. More holistically, court-watching gives legal advocates and community organizers a more informed sense of what is actually going on in the courtroom, and provides a template of advocacy points and places where intervention is necessary. She also shared that if an organization has limited resources and has to pick a point of focus for their court-watch program, the hearings that are most common and perfunctory (such as probation hearings) are the ones that need to be made most available to the public. Finally, the last key piece of information I took from this conversation was the need to publicize any court-watching findings. Even speaking as an attorney, Dolly acknowledged that decisions in the courtroom do not necessarily change much in the system, but calling out judges and making court-watch observations as public as possible has the best hope of drawing more eyes to the court system and educating people on how to vote when judges are up for re-election.

My third conversation was with Sumayya Saleh. Similarly to Dolly, she focused on court-watching's potential to identify patterns and assist attorneys in figuring out the legal protections for which they could advocate. She mentioned court-watching's utility in being able to pull specific quotes and anecdotes to back up lawsuits. She acknowledged that in a recent lawsuit centered on probation detainers, the defendants "really harped on differences in court-watch forms," but that she saw her job as a lawyer to make use of the data and point out that the inconsistencies don't matter as much. Sumayya also emphasized the importance of publicizing

any reports written that are based on court-watch observations in order to educate and mobilize the community.

Sumayya had a complicated view of volunteer anonymity in the courtroom. She didn't think that a lack of anonymity made much of a difference in the judge's behaviors, as in her experience, judges tend to think that their judicial actions are in the right, and therefore are not bothered by people watching. She has even found it helpful, in some cases, for judges to be aware of her presence in the courtroom. This benefit comes into play specifically for fact-gathering purposes, when judges have, at times, seen Sumayya and her colleagues as "little school girls" and therefore been extremely forthcoming in sharing behind-the-scenes information about the court proceedings. Regardless of whether anonymity is maintained, she was doubtful about whether court-watchers can truly act as a deterrent force in the courtroom, saying, "the ultimate goal isn't to get judges to say different things on the bench, it's to get them to change their practices off the bench." In that view, even if a judge alters their behavior because they see court-watchers in their courtroom, that momentary change could actually be protecting more insidious decisions not made in the public eye. This perspective aligns in some ways with Dr. Van Cleve's view of a lack of anonymity changing the conditions in a courtroom and leading to unreliable data, but provides another dimension and perspective on the ultimate goal of court-watching and the different tactics court-watchers should take depending on what those goals may be.

My final interview was with Madalyn Baldanzi of Court Watch NYC. She had been with the organization since 2018, and was part of its transition to being volunteer-run. During that point of transition, they decided to shift their court-watching philosophy from court-watching as the point in and of itself to court-watching as a tactic for broader goals. This volunteer-run,

contract model differs from those that the other court-watching professionals I have spoken to discussed. Under this contract model, Court Watch NYC is currently working with the Scrutinize campaign, which is working on building a model to target carceral judges and have them taken off the bench. In contrast to some of the other models that prize anonymity, Court Watch NYC volunteers wear yellow shirts in order to identify themselves in the courtroom. Madalyn shared that she really felt that court actors behave better if court-watchers are visibly present in the room, and she believes anecdotally that their presence in the courtrooms after bail reforms led to lower bail amounts being set.

In her view, pure data collection of either the scientific or academic variety is not the goal of their court-watch program. Rather, the Court Watch NYC philosophy views court-watching as more of a PR campaign; they want the court-watchers to be visible so as to make a public statement that aligns with their tactical goals. More so than the anonymity of the court-watchers themselves, Madalyn shared that the organization has faced dilemmas about the anonymity of the people undergoing court proceedings themselves, as they want to publicize the stories of people who have suffered under the New York court system while simultaneously respecting their privacy.

This conversation provided insight into another possible model and structure for a court-watching program that differs significantly from the COEP model. The Court Watch NYC program is an example of a model where visibility of watchers is the point, the court-watching observations themselves do not function as data, and the watching is a supportive tactic for larger campaigns. This framework emphasizes collaboration with other community organizations, as well as tangible goals resulting in removing certain judges from the bench. Each of these

conversations provided me with new dimensions to consider when analyzing and evaluating COEP's model.

Evaluative Categories

To compare COEP's protocol against the areas of importance that I have identified here, I utilized a program evaluation format from the Queensland Government Department of Education and Training (Queensland Government 2022). This template lays out the following categories:

1. Core evaluation question to address
2. Information required
3. Information sources
4. Data collection and analysis

I found this template to be valuable for my purposes because it is not overly prescriptive in its evaluative categories and aligns with my qualitative approach to this project. This structure serves as a repository of what I have found so far, what questions remain, and the areas that could use further expansion (for the full table, see Appendix D). The evaluative categories that I have distilled from the three toolkits and the conversations with subject matter experts and that inform my analysis of COEP's protocols in the following section are as follows:

1. Criteria for selecting judges to observe
2. Anonymity of volunteers
3. Depth of court-watching descriptions
4. Diversity of court-watchers
5. Standardization in the training protocol and post-watching forms
6. Goals of the court-watching program

7. Court-watching model being employed
8. Consultation of those with expertise and lived experience with the court systems
9. Level of volunteer support provided
10. Collaboration with other community organizations
11. Acknowledgment of patterns, policies, and problems informing the court-watch environment
12. Outputs of the program

COEP Evaluation

1. Criteria for selecting judges to observe

COEP primarily chooses the judges they observe through a complaint system. Their current court-watching system is structured around producing judicial performance evaluations, so the judges themselves are the deciding factors for how COEP chooses which courtrooms to watch. Before the COEP protocol was restructured in the last year, the Executive Director, Malcolm Rich, would get recommendations from community members or people he worked with on Chicago Appleseed's committees for judges to observe. Because COEP staff wanted to make the judicial evaluation choice a more formally systematic process, they instituted an online form that theoretically anyone is able to fill out, including community members, direct service organizations, and legal professionals. From collecting these forms, distributed through committees and organizations Chicago Appleseed has been in contact with, COEP has figured out how to prioritize judges for observation. For judges undergoing full review, COEP has created an online form where anyone who has interacted with the judge in the courtroom under any capacity can submit a public comment. The organization is currently in the process of

transitioning to a more formal set of standards to use to decide which judges warrant further investigation.

2. Anonymity of volunteers

Anonymity of volunteers is not a priority for COEP. During virtual court-watching, COEP volunteers change their display names to “Court-Watcher for Chicago Appleseed.”

3. Depth of court-watching descriptions

The COEP training protocol encourages in-depth description from volunteers through both per-case and per-day forms. COEP advances a court-watching philosophy that positions volunteers as researchers in the courtroom, and they rate judicial behaviors and the courtroom culture using Likert scale responses. They also provide objective facts of the cases they are observing, with as many direct quotes as possible, and an overall narrative of the events they witnessed.

4. Diversity of court-watchers

COEP is considering setting different volunteer requirements for different demographics. Their current recruitment strategy is trying to ensure that volunteers come from non-legal backgrounds so that the court-watching observation reports provide different viewpoints than the attorney surveys that they collect. Ideally, no fewer than three volunteers are assigned to each judge so that a variety of points of views are represented. In the first round of judicial reports that COEP released in the last year, they dedicated a section to where their volunteers came from, and whether they had any specific professional, academic, or experiential qualifications that lend different levels of credibility to their observations.

5. Standardization in the training protocol and post-watching forms

There is a high level of standardization both in the training protocol and the evaluation standards that guide those principles. The same training and instructional materials are provided to every

new cohort of volunteers, and the post-watching forms are standardized. COEP uses the American Bar Association's evaluation standards as goalposts for whether judges need further evaluation: judicial temperament, impartiality, communication skills, and administrative capacity.

6. Goals of the court-watching program

COEP's current goals are holding problematic judges accountable, highlighting judges who are deserving of praise, and supplementing ongoing research and advocacy projects at Chicago Appleseed. Volunteers are assessing whether court professionals adhere to the NCSC Trial Court Performance Standards (Appendix A). After producing the initial judicial report, the two elements that COEP are hoping to achieve from the judges are responsiveness and judicial self-improvement. To accomplish that, the Chicago Council of Lawyers works with the judge under review to develop a judicial self-improvement plan to address community grievances.

Additionally, COEP is in the process of figuring out a strategy for releasing their judicial reports more publicly. While the primary court-watching focus is currently on the judicial performance reviews, COEP plans to continue expanding the program so that community court-watching is employed as a key piece of systemic reform-minded research projects, used to lend further context to literature reviews and more formalized interviews.

7. Court-watching model being employed

Of the models laid out by the Community Justice Exchange toolkit, COEP most closely aligns with the accountability campaign model and the system monitor model.

8. Consultation of those with expertise and lived experience with the court systems

I was unable to determine what level of consultation went into the initial development of the court-watching forms, but the forms have been continuously updated based on feedback from

volunteers, prior court-watching experience, and issues that have arisen during the data analysis process.

9. Level of volunteer support provided

COEP staff conducts check-ins with volunteers after they have completed their first month of court-watching. A couple of other supportive measures that the organization is considering include instituting “office hours” for volunteers and having more seasoned court-watchers accompany new court-watchers to hearings.

10. Collaboration with other community organizations

The current system of collaboration with other community organizations is rather informal, mainly springing from staff members who have directly worked with other organizations and are in direct communication with them, as well as receiving court-watching requests from outside organizations. Chicago Appleseed has previously collaborated with the MAMAs Collective (Mamas Activating Movements for Abolition & Solidarity) to complete court-watching on behalf of MAMAs’ goals. COEP staff expressed a desire to create a more structured system of collaboration with other community organizations.

11. Acknowledgment of patterns, policies, and problems informing the court-watch environment

During their volunteer trainings, COEP provides background context on the microcultures of the courtrooms, referencing a culture of “alienation and detachment” in the Cook County Court System (Agnew 2023). The training also provides information specific to the courtrooms currently under observation (in this case, the domestic violence courts).

12. Outputs of the program

The primary output of the COEP court-watching program in its current structure, as I have mentioned, is the judicial performance evaluation. COEP is at a point of transition in figuring out the overarching goals and outputs of their court-watching program. In the past, the court-watching they have used for research advocacy purposes has been a separate team from their general court-watching program. COEP leadership has been trying to figure out how to integrate their research team with the more general court-watching program, so it is possible that primary outputs will change as the program is restructured.

Conclusion

Recommendations

Based on the criteria laid out in the previous section, as well as the fact that COEP is at a transitional point at the moment and many of its protocols are under review, I believe that there are a few areas of expansion that could strengthen COEP's already robust court-watching program. If judicial review continues to be the primary goal of Chicago Appleseed's court-watching program, ideally the judicial evaluation form will become more accessible to public comment, rather than being disseminated through Chicago Appleseed's existing network. This could be accomplished through promotion of the form on social media, the creation of public forums to spread knowledge of the form to the community, and promotion through collaborative efforts with other community organizations. Once the survey is more widely disseminated, there could be potential to develop more formalized tallying of complaints against certain judges, providing quantification of the need for judicial review.

Moving into the court-watching process itself, while volunteer anonymity itself might not be the object, it may be beneficial to evaluate how the lack of anonymity could potentially affect the observations that court-watchers are collecting. This could be a point to mention in any reports that come of court-watching observations. Depending on the type of courtroom proceedings being observed, COEP could evaluate whether court-watchers should declare their affiliation with Chicago Appleseed, and whether they should present themselves in as non-descript a manner as possible. While volunteer retention is always a challenge, volunteer recruitment could be expanded, perhaps in collaboration with other Chicago organizations engaged in abolition organizing efforts. The more widely publicized calls for volunteer court-watchers are, the more likely it will be to have a cohort of volunteers with diverse identities and lived experiences.

To build off of COEP's idea to potentially hold "office hours" so volunteers can discuss their reactions to the court proceedings they have witnessed, regular volunteer meetings and in-person events might be another way to make volunteers feel supported and keep them engaged with the program. If COEP merges their judicial review program with more research-focused court-watching, there could also be additional opportunities to become more involved with Chicago Appleseed through roles such as data cleaning, data analysis, and volunteer outreach and scheduling. Expanding the number of volunteer roles available may appeal to court-watchers' interests and allow them to become more firmly entrenched in their work with COEP.

As COEP winds down their second round of judicial observations, they are at a crossroads in deciding whether they want to maintain their current model of privacy in the release of the initial judicial performance evaluation to give judges time to improve their behavior and only publicly releasing the second, updated report, versus publicizing their reports

from the very start. They currently take a very research-based approach to their court-watching, and are considering what approaching court-watching from a more advocacy-centered model could look like. While I think the report model can be a facet of more advocacy-focused court-watching, court-watching observations could be further publicized through more frequent front-facing information about what goes on in Cook County courtrooms (whether that looks like tweeting courtroom observations, sharing information with media outlets, public-facing blog posts, or public forums). By engaging in more direct publicizing of court-watching observations, COEP could foster greater interaction with the community and incite community awareness and engagement with judicial elections.

Additionally, COEP could draw on their connections with organizations like the MAMAs Collective to collaborate with individuals impacted by the justice system and use court-watching observations to identify areas of court cases with the potential for direct intervention (for example, using court-watchers to pack the courts for certain trials to show public support for the defendant). There is also potential for court-watching to expose patterns of constitutional violations that could lead to later litigation (in the same vein as court-watching's use in litigation that both Dolly Prabhu and Sumayya Saleh discussed).

Limitations

It is important to note that while I can make generalized observations about where COEP could go in the future, I also acknowledge the drawbacks of applying any idealized court-watching model to a real-life program that is constrained by staff, funding, and volunteer base. This analysis of the COEP program is also somewhat limited by the point in time in which I was conducting this examination. As Chicago Appleseed's court-watching program was restructured

in the last year, so far they have only performed one sustained round of court-watching and produced the initial judicial performance review. They are currently in the midst of collecting enough observations to produce a second report. The efficacy of this model, as well as the success of the collaborative judicial self-improvement plans that will be produced in conjunction with the judges themselves, will become more apparent in the next six months.

Chicago Appleseed itself is going through some staff changes surrounding the COEP program. At the time of this report, they are in the process of transitioning out their Jill Dupont Memorial Fellow, Jennifer Won Young Lee, and onboarding a new intern. These dynamics of staff restructuring highlight the fact that ensuring capacity, both staff and volunteer, is great enough to maintain a court-watching program can be a challenge in and of itself. This issue also came up in my conversation with Madalyn, as Court Watch NYC had no choice but to switch to a volunteer-run model when funding for official staff court-watching positions was pulled.

Additionally, I had hoped to gather more first-hand experience court-watching with COEP before writing this report. If I had been able to establish a weekly schedule of court-watching, I would have been able to provide a more textured and in-depth understanding of what it is like entering the virtual courtroom space as a COEP volunteer. However, I have begun to establish a weekly watching schedule and plan to continue my working relationship with Chicago Appleseed, and will be able to update this report if I gain new insights from court-watching myself.

Future Directions

In order to continue building a comprehensive understanding of COEP's structure, I will be disseminating a survey to COEP volunteers about their experience court-watching, as well as

any recommendations or feedback they might have for the COEP staff (see Appendix E). The results of this survey will provide further context to my own analysis in this report and shed light on any areas of the program that may need adjustment or expansion. As COEP continues to develop and polish their protocol for producing judicial performance evaluations, there may be more opportunities for publicization of the reports, as well as direct engagement with voter education efforts in mobilizing Chicago voters to get involved in judicial elections. Furthermore, as there is a network of Appleseed Centers throughout the U.S. and Mexico, Malcolm Rich hopes to work with new and emerging centers to start their own court-watch programs. Having a repository of information about the goals and efficacy of a variety of different models of court-watching programs in different locations will provide a strong backing for the value in establishing new programs at other Appleseed Centers.

In a society laden with structural inequities at every level, the sheer amount of change that must happen to build a fairer world can be near paralyzing. While we must never lose sight of the sweeping reforms and rebuilding efforts that the justice system requires, we should never stop advocating at any and every level available to us. To return to the words of adrienne maree brown, we need those inch-wide, mile-deep movements as much as we need the big picture. Court-watching represents one such movement, where slipping behind the scenes and watching a judge who may have been operating unchecked for far too long can lead to vital change. Chicago Appleseed's model of judicial oversight has the potential to take judges to task and educate voters on the extreme importance of judicial elections. With more eyes on the courts, radical improvements can grow and spread a grassroots movement of true justice.

Appendix A: National Center for State Courts Trial Court Performance Standards

1. Trust and Confidence in Public Proceedings
 - a. The trial court conducts its proceedings and other public business openly.
 - b. The court must ensure that its proceedings are accessible and audible to all participants, including litigants, attorneys, court personnel, as well as members of the public including victims, families, jurors and the general public
2. Safety, Accessibility and Convenience
 - a. Trial court facilities are safe, accessible and convenient to use for all members of the public, as well as courtroom participants.
 - b. Court personnel should not engage in any intimidation or impropriety to visitors including victims, families, jurors and the general public regardless of their social background.
3. Effective Participation
 - a. The trial court gives all who appear before it the opportunity to participate effectively, without undue hardship or inconvenience.
 - b. The court must accommodate all participants in its proceedings— especially those who have language difficulties, mental impairments, or physical handicaps. This includes interpreters for the deaf, arrangements for the impaired, and translators for non-English speakers. Also, defendants should be able to ask their attorneys questions during proceedings without being reprimanded.
4. Courtesy, Responsiveness and Respect
 - a. Judges and other trial court personnel are courteous and responsive to the public, and accord respect to all with whom they come in contact.
 - b. The criminal court should be accommodating and less intimidating. No court employee should by words or conduct demonstrate bias or prejudice based a person's social background to other employees of the court, as well as members of the public. Furthermore, victims and defendant's families should be treated with appropriate tact and basic sensitivity, and their questions should not be criminalized or ignored.

From: Van Cleve, Nicole Gonzalez. 2016. "Court Watching Training"

<https://www.sup.org/crookcountyresources>

Appendix B: Participatory Defense Programs

Operation Restoration

New Orleans Safety and Freedom Fund

<https://www.or-nola.org/about>

“Formed in 2016 and led by formerly incarcerated women, Operation Restoration’s (OR) mission is to support women and girls impacted by incarceration to recognize their full potential, restore their lives, and discover new possibilities.”

De-Bug

Silicon Valley De-Bug Program

<https://www.siliconvalleydebug.org/>

“Silicon Valley De-Bug is a community organizing, advocacy, and a multimedia storytelling organization based out of San José, California. Since its’ inception in 2001, De-Bug has been a platform for Silicon Valley's diverse communities to impact the political, cultural, and social landscape of the region, while also becoming a nationally recognized model for community-based justice work.”

Court Watch NOLA

<https://www.courtwatchnola.org/>

“Over the past 14 years, Court Watch NOLA has recruited, educated, trained, and supported more than a thousand volunteers in observing and reporting on whether our judges, prosecutors, public defenders, sheriff deputies, police officers, and other criminal justice actors are doing their jobs professionally, transparently, fairly, and economically.”

Appendix C: Subject Matter Expert Conversation Questions

1. Nicole Gonzalez Van Cleve:

- What did the process of establishing the court-watching program look like?
- What are the most important components of a court-watching program?
- What are your hopes for the program?
- Challenges? Successes?

2. Dolly Prabhu:

- What is your experience working with court-watchers & court-watch data?
- What are your thoughts on the use of court-watch data in litigation?
- What are your thoughts on court-watching programs in general?
- How do you view the importance of anonymity in the courtroom?

3. Sumayya Saleh:

- What is your experience working with court-watchers & court-watch data?
- What are your thoughts on the use of court-watch data in litigation?
- What are your thoughts on court-watching programs in general?
- How do you view the importance of anonymity in the courtroom?

4. Madalyn Baldanzi

- How long and to what extent have you been involved with Court Watch NYC?
- What is the structure of the program?
- What are your thoughts on court-watching programs in general?
- How do you view the importance of anonymity in the courtroom?

Appendix D: Evaluative Chart

Evaluation Question	Information Needed	Data Source	Data Analysis
<p>What are the criteria for selecting judges to observe?</p>	<p>Does COEP collect requests from the community?</p> <p>What is the vetting process like for selecting judges?</p>	<p>COEP Development Plan</p> <p>COEP Blueprint</p>	<p>Choosing judges based on who has received community complaints</p> <p>Maintaining an online survey for the purpose of reporting judicial performance issues → see if allegations meet COEP's standards to warrant further investigation</p> <p>Once judges selected for evaluation, distribute surveys to wide range of individuals who have interacted with the judge (attorneys, litigants, jurors, court employees, and state employees who regularly appear in court); questions are based on ABA's evaluation criteria; then conduct follow-up interviews with certain respondents</p> <p>For judges undergoing full</p>

			review, create online form where anyone who has interacted w/ the judge in the courtroom can submit a public comment, may follow up for interviews w/ those people
What level of anonymity do volunteers maintain?	Is maintaining anonymity ever a priority in the courtroom? What steps could volunteers potentially take to ensure anonymity?	COEP Training	For virtual court-watching, volunteers told to change names to: Court-Watcher for Chicago Appleseed Center: [Your Name]
How in-depth are volunteers encouraged to describe court proceedings?	No further information required	COEP Protocol + Training	Volunteer training encourages in-depth description through both per-case and per-day forms, and are positioned as researchers in the courtroom. Per-case forms include sections for: general info, Likert scale responses, project-specific questions, and an overall narrative Per-day forms include sections for: general info, impressions, objective facts of

			case (direct quotes are encouraged)
Is there a push for diverse volunteer watchers?	<p>What are COEP's recruitment methods?</p> <p>Does COEP track volunteer demographics?</p>	<p>COEP Development</p> <p>COEP Blueprint</p> <p>Report Writing Template</p>	<p>Considering setting different requirements for different demographics</p> <p>Assigning no fewer than 3 volunteers per judge to ensure variety of POVs to be represented</p> <p>Try to ensure that volunteers come from non-legal backgrounds so that observation reports provide diff viewpoints than attorney surveys</p> <p>Section in first judicial report about where volunteers come from, and if they had any professional, academic, and/or experiential qualifications to lend more credibility to observations</p>
Is there standardization in the training protocol and post-watching forms?	How much does the training vary according to type of courtroom proceeding being observed?	<p>COEP Protocol + Training</p> <p>COEP Blueprint</p>	Yes, a standard training is deployed for every new cohort of volunteers and the forms are standardized

			<p>Use of ABA's evaluation standards as a goalpost for whether judges need further evaluation (judicial temperament, impartiality, communication skills, and administrative capacity)</p> <p>Training protocol for volunteer court-watchers should mirror that used for preliminary assessments</p>
Are the goals of the program clearly defined?	What are some examples of goals specific to research and advocacy projects at Chicago Appleseed?	COEP Protocol + Training COEP Blueprint	<p>Yes, protocol lists goals as: holding problematic judges accountable and highlighting judges deserving praise; supplementing ongoing research and advocacy projects at Chicago Appleseed</p> <p>Volunteers are assessing whether court professionals adhere to the National Center for State Courts (NCSC) Trial Court Performance Standards</p> <p>2 elements of judicial performance evals:</p>

			<p>responsiveness and judicial self-improvement</p> <p>Approach is totally separate from judicial evals conducted for the purpose of educating voters</p> <p>Community court-watching employed as part of systemic reform-minded research projects - to be utilized in conjunction w/ lit reviews & interviews</p>
What court-watching model is being employed?	Would Chicago Appleseed see COEP as fulfilling multiple models simultaneously?	COEP Protocol	Seems to be a combination of the accountability campaign model (once judicial report has been issued) and system monitor model
Are subject matter experts consulted while developing training models?	Who qualifies as a stakeholder during phase two of judge observations?		More information needed
What level of support is provided to volunteers to process what they have seen in court?	<p>Are there team check-ins for court-watchers?</p> <p>Do check-ins occur before the end of the 12-week period?</p>	<p>COEP Training</p> <p>COEP Development</p>	<p>Training indicates that Court-watchers will be contacted by Chicago Appleseed staff to re-evaluate the court-watching process</p> <p>Considering instituting "office</p>

			hours” for volunteers, having seasoned court-watchers accompany new court-watchers to hearings
What level of collaboration is there with other community organizations?	Is court-watching data shared with other community organizations? What does the review process look like after receiving court-watching requests from other organizations?	COEP Protocol	Chicago Appleseed receives court-watching requests from community orgs and review requests to assess if they are suitable Previous collaboration with MAMAs
Is there acknowledgment of patterns, policies, and problems informing the court-watch environment?	What is the context that led to COEP focusing specifically on domestic violence hearings at this time?	COEP Protocol + Training	Yes, COEP has a strong focus on the microcultures of courtrooms Training references the culture of “alienation and detachment” in the Cook County Court System
What are the outputs of this program?	Under what circumstances are the judicial reports shared with the public?	COEP Protocol + Training COEP Development COEP Blueprint	The primary output is the judicial performance evaluation Phases of report include: receiving court-watch request from community org and review, gather info on judge and create training materials, recruit and train court-watchers,

			<p>clean data and identify emergent findings, issue preliminary report, complete data analysis, and issue final report</p> <p>COEP offers to work with judges to develop judicial self-improvement plan and then monitors to see if plan is followed</p> <p>In the process of figuring out strategy for releasing COEP reports publicly</p> <p>Thinking of shifting to court-watching for 2-3 months, sending report to judge, then CW for 6-8 weeks</p> <p>Chicago Council of Lawyers will work w/ judge to develop judicial self-improvement plan to address community grievances</p> <p>Judicial report reviewed by advisory committee that is diverse and knowledgeable about court system</p>
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Appendix E: Volunteer Survey Questions

- How long have you been a court-watcher for COEP?
- How frequently do you court-watch?
- What made you want to start court-watching originally?
- Can you describe the types of hearings or trials that you have observed?
- What are some common themes you have observed while court-watching?
- What are some adjectives you would use to describe the judges you have observed?
- What is the #1 thing you look for when observing?
- How would you describe the culture of the typical courtroom that you have observed?
- What are some feelings that have come up for you while observing?
- Has court-watching changed your views on the justice system? If so, in what ways?
- What keeps you motivated to stay engaged in the COEP program?
- Do you have any suggestions for adjustments that could be made to the COEP program?
If so, what are they?

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