

Court Watching 101

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What is Court Watching?

- Courtwatching is neither new nor limited to one particular format or purpose.
 - For as long as there have been criminal court trials, community members have filled courtrooms, watching to support their neighbors, friends, or loved ones who have either been victimized or accused of a crime.
- More formal monitoring programs have existed since as early as the 1970s, focusing on issues including:
 - the treatment of undocumented people in immigration hearings
 - the rights of survivors in domestic violence cases
 - the efficiency of court processes and the conditions of court buildings
 - the protections for children in family court and custody cases.

In the most recent decade, as public conversation has shifted from being “tough-on-crime” to ending mass incarceration, activists and advocates have started courtwatching as one way to hold their local criminal legal system or immigration system accountable to community demands for decarceration.

Goals

For decades, advocates, activists, and organizations across the political spectrum have deployed court watching as a tactic to achieve a wide variety of outcomes:

- ensuring a more transparent criminal legal system
- reporting on judges or prosecutors
- gathering information for a campaign
- providing individual case support
- increasing civic engagement
- guaranteeing policy implementation

Why Do We Court Watch?

Courtwatching should be rooted in an intentional and thorough strategy designed to achieve your campaign's goals.

1. What is the problem?
2. Who are the targets, as well as allies, opponents, & constituents?
 - Targets are the people, organizations, institutions, or groups who hold the power to meet your campaign demands and can make the change you want. There are also allies who can help and opponents who may hinder progress towards your goal. Your constituents are the core people with whom you are working and organizing—the people who agree with your issue and share your goals.

Using Court Watch as a Tactic

- Tactics are the activities you do to achieve your goals.
- Once your campaign strategy is set and you are clear on the problem, goals, objectives, and targets, the question becomes:
 - Is courtwatching an effective tactic to influence your targets to produce the desired change?
 - If the answer is yes, then there are many ways to design and implement a courtwatching program that fits your strategic goals.

Models

- This list is not an exhaustive one, and none of the models are mutually exclusive.
- Many courtwatching programs combine elements of several models.
- This section on models can be a starting point for thinking through what type of program would be the best fit for your particular context and campaign strategy.

Models

- **Exploratory Research Model**
 - In this model, individuals observe court proceedings to gather initial information about the criminal legal system and/or the immigration system and understand the way it operates in order to plan future actions or conduct additional research.
 - WHY DO IT: Outlining court practices and processes can provide the necessary information and context to form the basis of future work, such as a training program for judges or prosecutors, a research project focused on a particular aspect of the system, or a targeted advocacy campaign.

Law students working with the Vera Institute of Justice observed arraignments in NYC to gather data on the forms of bail judges were more likely to set. They found that judges relied heavily on cash bail and insurance company bond. Vera used these observations to create a training program for public defenders on how to request alternative forms of bail and for judges on why they should set alternative forms of bail beyond cash and insurance bond. The observations also helped inform further research on the results of specific cases where alternative forms of bail were set.

Models

- **Civic Engagement Model**

- Courtwatching can increase public understanding, exposure to, or engagement with the criminal legal and immigration systems. In this model, the focus is on the experience of the courtwatchers—and their personal and political development as it relates to larger questions around democratic participation in the legal system. In this model, the courtwatching program is viewed as a direct mode of political education, civic engagement, and a means to building people power.
- **WHY DO IT:** Exposing members of the community to the daily injustices of courtrooms can be radicalizing. It can motivate people to vote, organize, and take action.

- A major component of Court Watch NYC, that focuses on prosecutorial transparency and accountability, is building organizing power internally among courtwatchers.
- Many of the people who attend trainings are new to organizing around criminal justice reform, and courtwatching provides an on-ramp to engaging more deeply with movement work.
- Monthly trainings involve political and legal education, as well as information about other organizing opportunities beyond courtwatching.
- Courtwatchers attend monthly debriefs to share what they observed and experienced in court and to discuss demands they want to make of their district attorneys and the court system.
- Watchers also meet to organize accountability actions and events, and mobilize for lobby days, rallies, and other advocacy opportunities

Models

- **Individual Support Model**

- Courtwatching can influence the outcome of a specific person's court case. In this model, the family, friends, neighbors, and supporters of an accused person attend each of their court dates, showing the judge, prosecutors, and juries that the accused has community ties and support. **Because the impact will vary depending on individual case's circumstances and context, individual court support should only be done with the consent of the accused person facing trial and in consultation with their lawyer.**
- WHY DO IT: Community support, whether through oneoff pack-the-court days or as part of broader individual support campaigns, has the potential to increase the likelihood of a positive outcome in a person's case. **However, depending on the specific case circumstances, the court may resist the presence of supporters in ways that could detrimentally impact the case. For these reasons, deciding whether or not to have community court support should be led by the accused person.**

- Participatory Defense Hub of Durham, NC
 - Silicon Valley De-Bug, a community organizing group in California that developed the practice of participatory defense, conducts a range of courtwatching, including court monitoring and individual case support. When engaged in individual case support,

Model

- **Accountability Campaign Model**
- Courtwatching can ensure the court system and individual actors within it are accountable for implementation of a recent “reform” (such as legislation passed, judicial order enacted, prosecutor policy changed). In this model, the courtwatching program is designed to track the specifics of a new reform and what it actually looks like in practice. The end product, whether it is a report or media piece or community forum, can be presented to the public and has clear targets.
- WHY DO IT: Policy changes on paper may not have the anticipated effect on practices in courtrooms. Without monitoring and community accountability, the court system lacks incentive for enacting decarceral changes.

- ACLU of NC
 - New Bail Policy 3/2019
 - Began watching daily in bail hearings with trained volunteers
 - Report more than likely

Models

- Advocacy Campaign Model Courtwatching can collect data and stories to support an advocacy campaign. In this model, observations are focused on a particular issue as part of a broader campaign to demand change.
- WHY DO IT: Assembling a report about a particular injustice can provide the basis for launching or advancing a campaign.



Lawyers Committee for Civil Rights Under Law

In Arkansas, thousands have been jailed, often repeatedly, for weeks or even months at a time, simply because they are poor and cannot afford to pay court costs, fines and fees.

During their investigation, they interviewed 205 individuals who were charged and/or incarcerated as the result of their inability to pay fines and fees. They also performed court-watching in eight counties, sent nearly 300 requests pursuant to Arkansas' Public Records Act, and interviewed judges, government officials, and representatives from multiple Arkansas-based social services organizations.

CONCLUSION OF INVESTIGATION

Many judges proceed directly to the punishments available through the Arkansas Fines Collection Law without first conducting the ability to pay determination mandated by Arkansas state law and federal law. Thousands have been incarcerated for nonpayment of fines and fees without requiring the State to meet its burden under the Fines Collection Law; *proving that an individual's nonpayment is the result of a purposeful refusal to obey a sentence or failure to make a good faith effort to obtain the funds for payment.*

Model

- **System Monitor Model**
- Courtwatching can establish a general culture of transparency and accountability of public officials and court actors. In this model, the courtwatching program is designed to be ongoing, and court observers observe court shifts on a steady schedule. The information collected and shared may focus on any number of rotating issues—such as bail, charging decisions, or protective orders— as well as any number of court players such as prosecutors, judges, or public defenders.
- **WHY DO IT:** Developing an ongoing monitoring program where players in the courtroom, such as judges, clerks, public defenders, and prosecutors, know community members will be present on a regular basis promotes an open, transparent, participatory, and accountable court process.

Court Watch NOLA is a non-profit organization that has conducted courtroom observations of the Orleans Parish criminal court system since 2007. They train volunteers on a regular basis and maintain a consistent presence in the courts. Courtwatchers are easily identified by their bright yellow lanyards. The data collected is used to publish annual reports about the state of the criminal, magistrate, and municipal courts in New Orleans.

Things to Consider: Access

- Is courtwatching even possible in your jurisdiction?
 - Some courtrooms may not be open to the public, either in practice or by rule. Observing in some courtrooms may be impossible because there is inadequate seating or because it is too difficult to hear or see what is happening.

Things to Consider: Access

- What are the access considerations to enter and navigate the court building?
 - Consider assessing the actual physical conditions and barriers, such as court building days and hours of operation and spatial location of specific courtrooms. Parking and the cost of parking is also something to consider.

Things to Consider: Access

- What are the rules for the court that you want to observe?
 - Consider assessing the rules and regulations of the court building and individual courtrooms, such as the entry process and the requirements of audience members with regards to conduct, clothing, and belongings. In some courtrooms, people are permitted to use cell phones, take photos, or record video, and some courtrooms even have rules around recording or taking notes on paper.

Things to Consider: Access

- How does the system work?
 - Find out the procedural steps in a criminal case or immigration detention proceeding in your jurisdiction. If you decide to focus on fees and fines, what court room would you most likely be able to observe the use of fees and fines?
 - **Court accessibility is not only about physical access, but also about knowing the procedural path of a case from arrest to resolution**

Things to Consider: Capacity

- What is your organizational capacity to staff and manage a courtwatching project?
- Who are you working with?
 - Collaborating with other organizations doing similar work can provide additional capacity for organizing the program, as well as more robust results. For example, partnering with public defenders can be helpful for designing and leading volunteer trainings on the legal and logistical aspects of the court process. Partnering with an academic institution or well-funded non-profit can be useful for data cleaning, analysis, and reporting.
 - For any collaborative project, especially between groups with differing political positions, it may be important to have a conversation around values and value alignment early on in the process.
 - In general, before starting any program on your own, it is a good idea to do a scan of the organizing landscape to see if other community groups or organizations are already active in this work.

Things to Consider: Capacity

- How will you staff this project?
 - Depending on your group or organizational set-up, you may use paid staff, an existing volunteer/member base, or you may decide to recruit a new cohort of volunteers to staff and manage the project.
 - If you envision volunteers becoming a central part of your program, evaluate whether you are structurally set up to recruit and manage volunteers.

Things to Consider:

- How will you coordinate data collection and entry?
 - Depending on the scope of your project, you may be collecting a lot of data. Data entry can be a significant lift for the program organizers, whether done by a staff person or by a group of volunteers who need coordinating.

Things to Consider: Outputs

- What will you do with the information you collect?
- What do you need to produce to help achieve your goal?
- Who will produce project outputs and how much time is required?
- Who is your audience?
- How will you present your findings?

Things to Consider: Data

- What is the information that you need to produce your end product?
- How much information do you need?
- What information do you need?
- What type of information?
- Where to gather information?
 - For fees and fines, it would be best to speak with public defenders or others familiar with the courts to determine which courtrooms and what days your courtwatchers should focus on.

Courtroom rules and Conduct

- Arrive well before the proceedings begin
- No speaking once court is in session
- Silence your phone
- Do not appear to be recording or taking pictures of proceedings
- No food, drinks, or gum
- Remember that your behavior in the courtroom impacts the people being detained the most and your behavior in that courtroom can put people at risk.

Questions?



**For more information or to
schedule a training in your
community :**

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Resources

Thank you for the hardwork put in by Community Justice Exchange that created the container to frame all the work going on across the country about court watching. Without their work, this training would not be possible.

[Community Justice Exchange Court Watch Guide.pdf](#)