



What is the Court Observer Program?

Racial disparities in Wisconsin's incarceration rates are among the worst in the country. This is a result of issues at every level of the system. Public attention to the court system is necessary to drive change in court processes. In 2018, volunteers with the Madison-based Nehemiah Center for Urban Leadership developed the court observer program to gain a deeper understanding of the criminal legal process in Dane County. In 2021, with the impact of the pandemic on housing insecurity, the program expanded to include eviction court.

Under the guidance of Nehemiah staff, the program offers members of the public the opportunity to learn more about our local criminal and eviction courts through a combination of education and court observation. Trained observers attend court proceedings and share their observations with Nehemiah staff to gather insights that help Nehemiah:

- Identify irregularities or challenges to equity
- Expose the public to details of the court process
- Formulate advocacy actions
- Support criminal justice research efforts

What are the requirements to become a Court Observer? Court Observers do not need any prior experience with or knowledge of the legal system, and they come from a wide variety of personal and professional backgrounds. They share a sense of curiosity and humility, are committed to being non-judgmental, and have a willingness to learn.

What training, supervision and support do Court Observers receive? Training is provided by experienced volunteers who are members of the Nehemiah Justified Anger Court Advocacy Team

- Training varies for criminal and eviction court but includes an overview of the goals of the program, the observer role, and the court process, as well as an opportunity to practice observing and submitting reports based on their observations.
- The Justified Anger Court Advocacy Team provides observers with a variety of resources to support their work: links to useful resources, monthly meet-ups where volunteers share recent experiences and learn from each other, and a wide range of learning opportunities through Nehemiah's ongoing training and education programs.

What court processes are observed?

- In criminal court, volunteers may observe one or more of the following proceedings: Initial appearances, plea hearings, sentencing, motion hearings, and trials.
- In eviction courts, volunteers observe initial appearances and resolution of individual cases. Where cases are contested, volunteers observe motions and trials before a judge.

What do court observers do?

Using court calendars, they select times and courtrooms to observe in-court hearings or (in the case of initial appearances and eviction hearings) observe online. For each case observed, they complete a data collection form developed by Nehemiah.

What do court observers see? Some of the information observers collect is available in public records, such as charges, attorneys, demographic information, and legal proceedings. Much of the observation process

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includes gathering information and impressions that are not captured by the publicly available data. What observers look for is somewhat different in criminal and eviction court, but there are some commonalities in viewing the overall courtroom experience:

- How do various people (victim, accused individual, plaintiff, judge, commissioners, attorneys, bailiff) interact and communicate with each other.
- Did the defendant or tenant have appropriate opportunities to speak and ask questions?
- If the defendant wasn't physically present in the courtroom, were the parties able to communicate clearly?
- When explaining decisions, expectations, and consequences to the defendant, did the judge or commissioner explain clearly, without jargon?
- Did the court acknowledge or make the parties aware of resources available to the defendant or tenant where appropriate?
- Did there appear to be any potential cultural differences among the individuals present that might be a source of misunderstanding, bias, or discrimination?
- Did anything happen that will slow the process that was not the fault of the defendant?
- In the case of virtual hearings, was there anything about the virtual nature of the hearing that may have negatively or positively impact the defendant/tenant's case or quality of representation?
- Finally, observers ask themselves questions: Was I surprised by any part of a proceeding? What do my reactions say about the proceedings? About me as an observer? What questions am I left with? What have I learned that I didn't know before? What have I learned about ways the criminal legal systems in Dane County impact defendants of color?

Are Court Observers advocates for individual defendants? No. While the focus of our observations is the impact of the legal system on people appearing before the court, observers focus on advocating for system-level change, not individuals being charged.

How do observers interact with people in the courtroom during observations? Observers are expected to be unobtrusive and non-judgmental. They don't seek out conversations with court personnel or any of the parties. They are happy to respond to questions about the Court Observation program and their own experiences but will not initiate questions or discussions about individual proceedings.

Do you ever share your findings with the Court? Can you describe some specific changes that have happened because of the court observer program?

Prior to the pandemic, Court Observers and Nehemiah staff held roundtable conversations with some of the criminal court judges and hope to resume these conversations. To get at "big picture" issues, Nehemiah staff will analyze the data collected to identify patterns that suggest areas for advocacy. In the case of both eviction and criminal courts, the Court Observers have communicated directly with the courts with recommendations for changes that could have more immediate impact:

- Eviction court: Tenants are considerably less likely than landlords to have legal representation. Observers assumed if they were confused by what was happening, it was likely that tenants were as well. Observers had three concerns: Speed of the hearings, heavy use of jargon, and missed opportunities to make tenants aware of resources. The Court Advocacy Team offered specific suggestions in each area.
- Criminal court: During the pandemic, nearly all appearances were virtual, and many were conducted with the defendant participating through the food slot in a cell door. In early 2021 the observers challenged this practice with the District Attorney, Sheriff, and county decision-makers. The appearance process was modified so that the majority of defendants were able to be in full view of the court, where they could see and be seen.