



From the Executive Director

After a brief period back in the office, OCVLC has returned to mostly working remotely for the time being, and we are all hoping that the surge in Covid cases abates soon. Despite the hurdles, OCVLC is committed to providing high-quality free legal representation and advocacy to Oregon's crime victims. Our work continues to challenge and engage us, and OCVLC attorneys have appeared on behalf of victims in contested restraining order hearings, in parole board hearings, and in sentencing hearings. We also have seen a rise in calls lately about victim privacy, and our attorneys have appeared in courts around the state on this issue.

OCVLC recently welcomed a new advocate to our team – Molly Bineham, who is providing empathetic and trauma-informed support to our clients. You can learn more about Molly on page 8. Molly is a great addition to the OCVLC staff and has provided exceptional advocacy to crime victims.

In October OCVLC will be presenting a free CLE for attorneys interested in crime victims' representation. The CLE is entitled Access to Justice for Undocumented Crime Victims, and will be presented via Zoom. It will take place on October 27th and we will apply for 1.5 Access to Justice CLE credit. We have a wonderful panel of experts who will be discussing the legal needs of undocumented victims and how attorneys can assist them. See page 9 of the newsletter for more information about the CLE.

We continue to look forward to the day when we are all meeting in person again, but until then we will continue to be adaptable, persistent, and optimistic about the future!

--Rosemary Brewer

Common Ethical Issues in Working with Crime Victims

By Emily La Brecque

Working with victims of crime whether as a victim's attorney or a prosecutor presents obstacles and ethical considerations that may differ from those of other clients or witnesses. Trauma and its effects impact people in a myriad of ways which can make communication, analysis of a case, and setting the scope your interactions challenging. The legal system is confusing and overwhelming, which can compound the trauma the victim has already experienced.

Is the victim already represented?

For victim's attorneys it is not uncommon that someone seeking legal services from you may already be represented in a closely related matter such as a restraining order, dissolution, custody, employment law, or tort case. Under the **Rules of Professional Conduct (RPC) 4.2**

Communications with Person Represented by Counsel, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order. The best practice would be to establish whether the victim seeking services from you is represented on a related matter and seek the consent of the representing attorney before proceeding with representation. This will not only help to avoid potential ethical issues, but can help to clarify for the victim what is your role vs. the role of their other counsel and allow you to clearly set the scope of your representation at the outset of the case.

For a prosecutor it is necessary to find out whether a victim is represented to avoid ethical violations under **RPC 4.2**, however the vast majority of victims are likely to be unrepresented. Under **RPC 4.3 Dealing with Unrepresented Persons**, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the

advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client. It is not uncommon for victims to mistakenly believe that they are represented by the prosecuting attorney. This misunderstanding of the legal system can lead to substantial complications for the case and trauma for the victim. To avoid this a prosecutor should clearly outline their role when meeting with the victim, inform them of their duties as a prosecutor under **RPC 3.8 Special Responsibilities of a Prosecutor**, and avoid giving them legal advice. This may need to be reiterated during later meetings.



Who do you represent?

Determining who your client is can be complex in victims' rights cases, particularly in cases with multiple victims and victims with diminished capacity. It is not uncommon for multiple victims within the same case to seek representation by the same attorney. Whether these are multiple family members of a homicide victim, multiple victims of the same sexual offender, or the parents/guardians of a minor victim you need to consider the potential for a conflict of interest and take steps to protect both yourself and your client(s).

Under **RPC 1.18 Duties to Prospective Client**, a person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client. Even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as **RPC 1.9 Duties to Former Clients** would permit with respect to information of a former client. If you have previously declined one victim in a case, pursuant to **RPC 1.18** it may be a conflict of interest to represent a subsequent victim who contacts you. In this case you should review **RCP 1.9** to determine whether they can ethically represent the subsequent victim.

What if you want to represent multiple victims from the same case? Under **RPC 1.7 Conflict of Interest: Current Clients**, a lawyer shall not represent a client if the representation involves a current conflict of interest. A current conflict of interest exists if the representation of one client will be directly adverse to another client; there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer. However, you may represent multiple clients in a related matter if you reasonably believe that the you will be able to provide competent and diligent representation to each affected client; the representation is not prohibited by law; the representation does not obligate the you to contend

for something on behalf of one client that you have a duty to oppose on behalf of another client; and each affected client gives informed consent, confirmed in writing. At the outset of a case it may be difficult to predict whether issues may arise that would make it impossible to represent both clients, even with a waiver. Over the course of a long, difficult case the interests of the victims may diverge. They may not agree on plea offers, potential sentencing outcomes, release decisions, speedy trial issues, or issues related to their records. For this reason the best practice would be not to represent multiple victims within the same matter, but rather to represent one and offer resources to seek independent counsel to the others. However, if you make the decision to represent multiple victims in addition to providing them with a waiver you should clearly explain at the outset that if their interests diverge you will need to withdraw representation pursuant to **RPC 1.16 Declining or Terminating Representation**.

In cases where you have been contacted by a parent/guardian seeking representation to protect the rights of a minor victim you should consider whether it is best in that particular situation to represent the minor themselves, the parent/guardian, or both. In addition to the considerations of whether or not it is appropriate to represent multiple clients in the same matter, you should also consider the age, capacity, and desires of the minor. In some cases, particularly those with a very young victim, it may be best for you to represent the parent or guardian. If you are considering representing the minor victim you should review **RPC 1.14 Client with Diminished Capacity** and determine whether they have the capacity to make adequately considered decisions in connection with a representation and if so, you should, as far as reasonably possible, maintain a normal client-lawyer relationship with them. This rule also outlines your ability to take reasonable protective actions if, based on their lack of capacity, they cannot do so themselves.

National Day of Remembrance for Murder Victims

By Sydney Trimble

The National Day of Remembrance for Homicide Victims, which takes place annually on September 25th, provides an opportunity for advocates and community members to commemorate murder victims and surviving loved ones. The day also honors the work of organizations that provide services, including support, advocacy, and counseling, for families, individuals, and communities that are coping with homicide-related deaths.



The founders of the Parents of Murdered Children and Other Survivors of Homicide Victims (POMC), Robert and Charlotte Hullinger, designated September 25th as the annual day of remembrance in honor of the day their daughter Lisa died. According to the National POMC office, it was felt that it would be appropriate and beneficial for all survivors to have a special day to remember together. For survivors of homicide victims, having their loved ones remembered is vital.

In 2013, POMC Portland celebrated the completion of their Memorial Wall at Oregon City's Mountain View Cemetery. This Memorial Wall is the only memorial wall in the Northwest for homicide victims, and is the eighth memorial in the United States. There are over 700 names on the Mountain View Cemetery memorial wall, inscribed in granite. The annual celebration generally involves a reading of every victim's name, speakers, music, colors presentation, memorial tribute, and a lunch. While the 2021 celebration has been cancelled due to the ongoing pandemic, POMC hopes to gather again in person in September 2022.



September is National Self-Care Awareness Month

By Molly Bineham

Why is self-care important?

To describe self-care I like to use an analogy as illustrated in the image on the right. The image illustrates what to do if there is an emergency on a plane and oxygen masks are needed. The passenger is instructed to put her oxygen mask on before helping the child in the seat next to her. This is important because the woman will not be equipped to help the child if she first does not prioritize oxygen for herself. Self-care is similar, if we do not care for ourselves we are not as equipped to care for others.



“The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet.”

-Dr. Rachel Remen

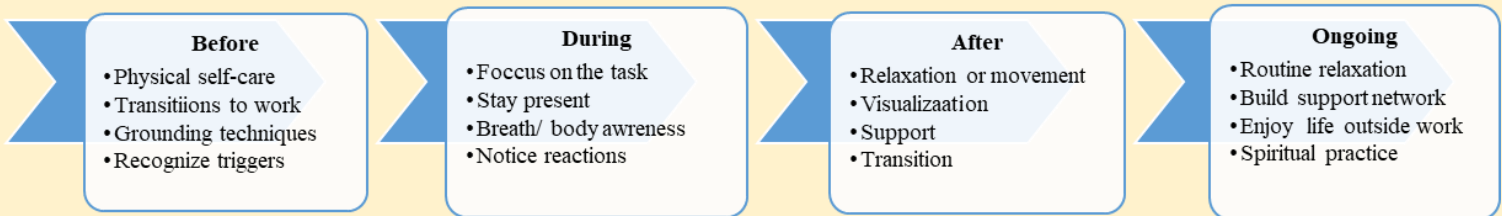
For people who support survivors and victims of crime, self-care is especially important. Self-care can help to avoid burnout, reduce compassion fatigue and negate the effects of vicarious trauma. Burnout is characterized as emotional exhaustion, negative views about work, and a feeling of ineffectiveness. Compassion fatigue is defined as a gradual decline of hope and empathy, an increase in bitterness, and a loss of respect for clients or coworkers. Vicarious trauma can result from being exposed to trauma. Vicarious trauma is an occupational hazard for those working in victim services. Self-care practices like making a plan to support resilience against the trauma can help reduce the effects of vicarious trauma. These types of plans will differ for everyone, but taking a break away from the work by exercising, debriefing, connecting with nature, or engaging in a positive ritual may help reduce the likelihood of negative effects of vicarious trauma. These practices promote self-monitoring and mindfulness when working with victims. As quoted by Dr. Rachel Remen, the expectation to be unaffected when immersed in suffering and loss is unrealistic (2006). Taking time to immerse ourselves in the present moment, or a positive activity, hobby or person, can help to reset and recharge oneself in order to continue working. Self-care can be used to prevent these occupational hazards as well as improve overall health. Multiple recent studies have found that that engaging in a self-care routine can reduce anxiety and depression, reduce stress, improve concentration, and minimize frustration (Glowiack, 2020, 2021). These benefits have shown to increase happiness and wellbeing while lowering morbidity and mortality (Riegel, 2020).

What does self-care look like?



There is no right or wrong way to practice self-care. Self-care is the act of intentionally taking time for yourself. Self-care practices could be going for a walk, doing a puzzle, calling your best friend, taking time to exercise or cook your favorite meal. Self-care could be many small things done throughout the day or one chunk of time to do something that reduces stress and makes you feel good.

Self-care is not only important and helpful before or after work. Self-care practices are beneficial while working with survivors or victims. It may feel difficult to practice self-care during a traumatic intervention, but it can benefit the client while also benefiting the service provider. In moments like these, it is important for the professional to stay focused, present and grounded, as well as being mindful of their physical presence, such as breathing, posture, and body awareness (Middleton, 2015). Self-care examples to practice before, during and after an intervention are listed below along with ongoing practices.



References

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<https://www.snhu.edu/about-us/newsroom/2019/04/what-is-self-care>

Ramen, R.N. (2006). *Kitchen Table Wisdom: Stories That Heal*. New York: Berkeley Publishing Group/Penguin Group.

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A look back on some of OCVLC's most recent work

By Vicky Radenkova

OCVLC attorneys and victim advocate provide legal representation and advocacy services throughout Oregon. Below are some highlights of the work the OCVLC team did this past quarter.

A victim seeking representation in a restraining order hearing was referred to OCVLC on a Friday afternoon with a contested hearing set on the following Monday. Based on our assessment that this was a high lethality situation, we accepted the case and prepared to go forward for the Monday hearing. Over the weekend the offender violated the restraining order repeatedly. An OCVLC attorney assisted the victim in reporting the violations, and the offender was arrested. The restraining order was upheld after a contested hearing, and the offender admitted to the contempt of court and was sentenced in that case. OCVLC assisted the victim with securing a pro bono family law attorney and securing a Temporary Assistance for Domestic Violence Survivors grant to help them secure housing.

An OCVLC attorney recently represented the family of a murder victim who learned that the person responsible for the murder had applied for a discharge from parole. The family reached out to OCVLC seeking assistance asserting their right to be heard and their right to protection, as there is a no contact order as a condition of the parole. OCVLC worked with the family to ensure their input is considered by the Parole Board.

An OCVLC attorney assisted a client whose abuser was continually filing motions to dismiss a stalking protective order, which had already been upheld after a contested hearing. After the Respondent filed multiple motions to dismiss the protective order, the OCVLC attorney filed a motion for injunctive relief with the court. Not only was the motion for injunctive relief granted, but the court stated that the Respondent's continual filings came close to



violations of the stalking order in their own right, as they were harassing in nature. OCVLC was also able to connect the client with an attorney to assist them with a civil tort claim that the Respondent had also initiated against the client.

The victim advocate at OCVLC supports victims as they navigate the criminal justice system. The advocate has assisted victims in reporting crimes to law enforcement by preparing victims for the call to police, makes the call with the victim and discusses the next steps after reporting the crime. The advocate recently assisted a victim in making a report which led to an arrest of the defendant. The defendant is now being prosecuted for two counts of Invasion of Privacy in the First Degree and Luring a Minor.

The victim advocate provides safety planning to victims by explaining the process to obtain a protective order, helping the victim plan for an unsafe situation and connecting the victim with other community partners. The advocate is a certified Address Confidentiality Application Assistant and has helped three victims apply for the Address Confidentiality Program in Oregon this year. This program allows the victims to obtain a confidential address and have a higher sense of security.

Introducing OCVLC's Victim Advocate



Molly Bineham

Molly Bineham joined OCVLC as the Victim Advocate/Administration Specialist in June, 2021. Molly assists survivors in safety planning, advocates for victims throughout the court process, and connects clients with community resources. She conducts client intakes and connects clients with our attorneys as well as managing OCVLC social media accounts.

Prior to working at OCVLC, Molly graduated from Portland State University with her Master's in Criminology and Criminal Justice with a specialization in Public Health. She is passionate about empowering and advocating for people in our community, criminal justice reform, social justice, and fostering diversity.



Molly has obtained training and education in trauma-informed care, centered on victim advocacy. Most recently she attended the State Victims Assistance Academy, which focused on trauma-informed advocacy. She works to create a safe space, restore power, and value the individual she is working with. Molly has previous experience working as a Sexual Assault Victims Advocate for the Multnomah County District Attorney's Office.

Oregon Crime Victims Law Center Presents

Access to Justice for Undocumented Crime Victims

October 27, 2021 | 4:00PM – 5:30 PM

Free Online CLE

Through a panel of experts working through two case studies, this CLE will address how attorneys and other professionals working with crime victims who are undocumented can facilitate and advance a victim's access to justice in the criminal and civil courts.

1.5 Hours Access to Justice Credit Pending

Panelists

Rosemary Brewer, JD; Executive Director, Oregon Crime Victims Law Center

Kara Brooks, JD; Deputy District Attorney, Clackamas County District Attorney's Office

Steve Milla, JD; Steve German Milla, PC

Sarah Purce, JD; Catholic Charities of Oregon

Sean Riddell, JD; Sean Riddell, Attorney at Law

Moderator

Megan Johnson, JD; Pickett Dummigan McCall LLP

To register follow this link: <https://www.ocvlc.org/cle---october-2021.html>