



OCVLC NEWSLETTER



From the Executive Director

By Rosemary Brewer

As we begin the new year, we are also reflecting on 2020. OCVLC had to change how we provide legal representation and advocacy to victims and find new ways to connect. Though there were enormous challenges, we were also inspired by others in the victims' services community around the state. We all pulled together to ensure victims still had avenues for accessing justice and were able to seek support and assistance when needed. OCVLC met the challenges 2020 brought and continued to stand up for victims' rights and to ensure victims' voices were heard, and we look forward to more opportunities to do so in 2021.

In 2020 OCVLC provided assistance to close to 300 victims in Oregon, helping with issues that ranged from protecting a victim's privacy to asserting a victim's right to be heard at sentencing. We represented many victims of domestic violence, sexual assault, and stalking who were seeking safety and protection in contested restraining order hearings, and we also were able to provide training to others working with victims around the state. This year we provided training to civil attorneys, prosecutors, advocates, and others who regularly work with victims, and found that a virtual format for training has the benefit of allowing us to reach those who might not otherwise be able to attend. In providing representation to victims we worked hard to ensure that our clients felt that we were with them whether we were able to be there in person or not. After one case concluded, our client wrote, "We are extremely happy with your staff in their communication to us. The response time to our emails or questions was practically instantaneous. (Our attorney's) patience in explaining the process to us was complete, and we went into our hearing feeling as though we were well prepared by her and covered by her."

As we go into 2021, OCVLC is as committed as ever to our mission of ensuring that every right for every victim is honored and protected in the criminal justice system, and we wish a healthy and happy new year to all.

Advocacy Corner: Advocacy for Child Victims

By Donna Botticelli

Advocacy resources and ideas for child victims and families.

A victim advocate's job includes sometimes advocating for the rights of children who are involved in the criminal justice system. There are a number of resources available in Oregon to assist child victims, along with system and community-based advocates can assist child victims when necessary.

Though advocacy may look a bit different during the Covid-19 pandemic, advocates are continuing their work to help victims and child victims whether in the courthouse, in district attorneys' offices, and in law enforcement agencies, as well as in the community, as with child advocacy centers and other agency partners. Some system-based advocates have returned to in-person work, helping to answer questions around court dates and hearings as well as with victims' rights. Though community-based advocates may be continuing to work remotely they are available for support via telephone, video, email. System and Community based advocates can provide child victims and their families support regardless of where they live in Oregon.

Child advocacy centers (CAC) offer trauma-informed advocacy and support for child victims and their families. CACs provide a safe, child-friendly environment for reporting crimes to law enforcement or speaking with trained professionals conducting forensic interviews. The CACs try to minimize trauma for children where there are concerns of abuse. CACs use a collaborative approach to try to minimize the number of times a child has to talk about the abuse. CACs are located in many counties in Oregon. (www.oregoncas.org)



With schools offering remote instruction due to the pandemic, reports of child abuse in the state have declined. It's suspected that this is because of the role teachers play as mandatory reporters of child abuse. Without the daily in-person contact with children, teachers are not seeing possible abuse in children or hearing reports from the kids they teach. To fill this gap in reporting, members of the community can learn to recognize the signs of abuse. According to Oregon Child Abuse Solutions, people who interact regularly with children should be aware of the following possible signs of abuse: unexplained injuries, changes in behavior, fear of going home or other places, changes in eating or sleeping patterns, and changes in school performance and school attendance.

For more information:

<https://oregoncas.org/education/signs-of-abuse/>.

An Oregon law, known as **Karly's Law**, mandates that children who are suspected of having experienced serious abuse must get medical attention within 48 hours. There are specific requirements under Karly's Law for law enforcement, DHS employees, and medical professionals. The Oregon Department of Justice has created a training video for those involved in child abuse investigations:

<https://www.doj.state.or.us/crime-victims/for-medical-providers/karlys-law/>

Other resources include:

If you suspect a child is being abused call 1-855-503-SAFE (7233)

Child Protective Services: for an office near you call 503-945-5600

Oregon Department of Justice resources: <https://www.doj.state.or.us/crime-victims/victims-resources/other-resources/child-abuse/>

Oregon Child Abuse Solutions (OCAS): 503-455-7223 info@oregoncas.org



CLE

Oregon Crime Victims Law Center Presents

Access to Justice for Children Encore

February 18, 2021 | 3:00PM - 4:30PM
Free Online CLE

Through a panel of experts working through a case study, this CLE will address how attorneys and other professionals working with children can facilitate and advance a child victim's access to justice in the criminal and civil courts. This is an encore presentation of the October CLE, with 30 minutes added to cover more material

Panelists

Alison Kelley, Chief Executive Officer, Liberty House

Rahela Rehman, Attorney-in-Charge, DOJ Child Advocacy Section

Emily Marrer, Sage Legal Center

Megan Johnson, Pickett Dummigan McCall LLP

Rosemary Brewer, Executive Director, Oregon Crime Victims Law Center

1.5 Hour Access to Justice Credit Pending

**Join us on
Wednesday April 21, 2021
for The Annual Hardy Myers
Award Presentation
and Fundraiser**

Save the Date

**JOIN OCVLC
ON
APRIL 21, 2021 AT 6:30 PM
FOR THE ANNUAL
HARDY MYERS AWARD
PRESENTATION AND FUNDRAISER**

**THIS YEAR THE EVENT WILL BE
ONLINE**

DETAILS COMING SOON

Child Abuse Investigations

By Tirzah Mathews

Child abuse investigations can seem to be overly complex due to the number of people, agencies, and coordination efforts involved. If the investigation is not done purposefully and collaboratively, the result can be detrimental to the child victim.

AGENCIES INVOLVED:

The following are the different types of agencies that can be involved in child abuse and neglect investigations:

DIVISION OF HUMAN SERVICES (DHS)

DHS will screen all reports when there is an allegation of neglect or abuse to determine if the allegation needs to be investigated further.

The DHS process is civil in nature and geared towards ensuring the health, safety, and welfare of the child by providing the family services and resources or by placing the child in a different permanent, safe home. A DHS investigation can work independently from or in conjunction with a law enforcement agency (LEA).

LAW ENFORCEMENT AGENCY

A LEA can also receive reports of child abuse and neglect and support DHS's investigation. If the LEA believes there is enough evidence that a crime of abuse or neglect was committed, LEA will also work with the prosecuting agency to gather evidence to charge the offender with a crime.



CHILD ABUSE INTERVENTION CENTERS (CAIC)

Child Abuse Intervention Centers (CAIC) are non-profit, third-party agencies that provide child medical examinations, forensic interviews, therapeutic services, and family support services. The purpose of CAICs is to provide trauma-informed, wrap-around services to both the child victim and family. Therapeutic and family support services assist the child and family in healing and moving forward from the trauma associated with abuse and neglect. The medical exam and forensic interview provide a neutral, evidence-based, information gathering service to assistance in the investigation. The information obtained is then shared with the other agencies.

MULTIDISCIPLINARY TEAMS (MDT)

Multidisciplinary Teams (MDT) are a network of professionals that are sanctioned by the county district attorney's office. In addition to the agencies discussed, MDTs can also consist of prosecutors, mental/medical health professionals, and school personnel. MDTs work collaboratively with the investigative agencies to improve the investigation by reducing duplicative processes, to share information with one another, and to seek appropriate resources and services for the child and family. According to the National Children's Advocacy Center, utilizing the MDT model in child abuse and neglect investigations is the best practice approach because "no one agency by itself could assure the protection of children."

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1 <https://www.nationalcac.org/multidisciplinary-team/>

COORDINATION EFFORTS AND INVESTIGATIVE PROCESS

Once a report of suspected child abuse is made, it triggers an investigation by one or multiple agencies. During the investigation, evidence is gathered in order to prove criminal conduct or to subject a family to court jurisdiction to be held accountable for the safety and welfare of their child. One type of evidence that can be used in either type of case is the child's own eye witness account of the abuse. When a child first makes a disclosure, it is common the child will do so cautiously and will not reveal details. Therefore, the investigative agencies will likely have to speak with the child in order to obtain the facts necessary to prove their case.



HOW INVESTIGATIONS IMPACT CHILD VICTIMS

By the sheer number of people involved in these types of investigations, child victims can be subject to re-traumatization by having to relive their abuse over and over. Before CAICs and incorporating the MDT approach, a child would often be questioned regarding the details of their abuse by each investigative agency. Investigative agencies now have a best practice model to implement and should work in a coordinated effort to minimize the number of times a child must tell their story.



REPRESENTING CHILD VICTIMS UNDERGOING DEPENDENCY PROCEEDINGS

By Yazmin Wadia

Attorneys who represent child abuse victims may find that some of their clients are temporarily in the state's custody or in foster care. It's important to understand the complexities of providing legal representation to children in criminal cases when there may be a simultaneous dependency proceeding.

First, attorneys need to recognize that the child is likely dealing with a significant amount of trauma. The stress of a criminal case alone is tremendous and for children in the foster care system or in dependency proceedings, trauma and stress multiply. In these situations children may respond to your inquiries one day and then shut down during your next interaction. Empathy and patience are vital in such cases. If a victim is not as communicative as in a previous meeting, it may be helpful to reschedule or change the topic.

If there is an open dependency proceeding, it is highly likely that hearings may occur during your representation of the victim in a criminal case. It is helpful to have a general understanding of the status of the dependency proceedings and know who the parties are. For example, a child victim may have: a guardian ad litem, a court appointed special advocate (CASA), and a dependency attorney representing them in proceedings. Identifying these individuals is helpful for a multitude of reasons, most importantly communication. It may also benefit the child victim to open a line of communication with their dependency attorney, being mindful of the child's attorney-client privilege and not disclosing any confidential or privileged communications.



In cases in which the criminal case precedes dependency proceedings, there may be confusion as to who the child victim's guardian is and whether formal guardianship has been established or if they are a protective adult in the child's life. If possible, establish boundaries with the guardian to maintain attorney-client privilege with the child victim.

For a child victim, it may be difficult to understand the roles of the various parties involved in their life, and to fully comprehend the proceedings. As the victim's attorney in the criminal case make sure you have open communication with the child to help with their understanding of what's going on, and work on building a relationship with the child based on trust.



Considerations in working with child victims

By Emily LaBrecque

Representing child victims is different as one of my early, unproductive interactions with a child victim illustrates. I met with the child and their guardian at a large conference table and, unsure how to effectively interact with the child, began a conversation about the case with the guardian, only minimally addressing the child. The child took this opportunity to crawl out of their chair and under the table, then to remove both of my shoes and refused to return them until they were allowed to leave at the end of the meeting. I deserved this. I had made no efforts to alter my usual meeting style or to accommodate the child, and was speaking only about them rather than to them. I had not put in the time or effort to learn about what trauma-informed practices would look like in addressing a child, who despite their age still had constitutional and statutory rights within our system.

Adopting child-mindful practices takes effort, and may be challenging and time consuming, however, in the modern landscape of prosecuting crimes with child victims or child witnesses it is necessary. Unfortunately, the multiple roles and responsibilities of a prosecutor, and their heavy caseloads, can add to this difficulty, particularly in situations where the interests of the prosecuting entity and the child may seem to conflict. For example, in cases involving child victims, my office is frequently asked how the guardian can ensure that the child does not have to testify. The difficult answer both to give and receive is that in most cases we cannot. In our post-Crawford world child testimony is often unavoidable if a case is to move forward, but there are steps that we can take to make the process less traumatic. Child victims may fear the unknown and not being believed. They may fear testifying against or being in the same room as the defendant, and this fear may be compounded by feelings of guilt, embarrassment, or social pressures. Involving counsel for the child victim in such cases can better allow for trust building, allowing counsel to learn about the underlying issues, so that they may address and ameliorate them.

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Some basic steps can be taken to help reduce the trauma to child victims or witnesses when their involvement in a criminal case is necessary:



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- Learn basic information about the child before the meeting, and be prepared to meet with them multiple times if possible and to spend early meetings focused on age-appropriate, non-traumatic topics of interests to them. Familiarize yourself with the basic stages of child development, and review the applicable stages before meeting with the child.
 - Make the meetings with the child more comfortable for them. Consider that when, where, and how you will be meeting may impact the child. If possible give them options as to where they sit, and where others around them are positioned.
 - Be sure that the child knows who is in the room and what their roles are, and that they have the right to ask questions, and take breaks.
 - Provide them with developmentally appropriate information about the process and possible outcomes.
 - Ask appropriate questions to learn whether their fears of the defendant will affect their testimony and to what extent.
 - Consider whether social factors are relevant to the child's testimony.
 - Think about what accommodations can be made, or motions filed, that could help to address the child's fears or concerns.
 - While keeping in mind the child's age, make sure that the child has a basic understanding of the criminal justice system and the roles of the various people they may see or interact within it.
 - Allow them to see the layout of the courtroom, and explain where the parties, judge, jury, witnesses, and the child victim's support people will be seated.
 - Give the child a developmentally appropriate explanation of security in the courthouse and safety in the courtroom.

Case Summaries

By Vicky Radenkova



OCVLC attorneys represented victims throughout Oregon in the last quarter of 2020, assisting with issues that ranged from criminal restitution and contested restraining orders to fighting the dismissal of a stalking protective order. Here are some brief summaries of a few of the cases we've handled recently.

An OCVLC attorney represented a victim in both a civil stalking order case and in the criminal case that resulted from stalking behavior. In the criminal case, the victim wanted to assert her right to be heard at the plea and sentencing hearing, but was unable to be present due to her work schedule. Her OCVLC attorney was able to obtain a continuance to ensure the victim's right to be heard was preserved. After hearing from the victim, the judge sentenced the offender to more time in jail than had been requested by the district attorney and ordered that there be no contact with the victim. OCVLC also represented the victim in the civil stalking case and was able to obtain a permanent stalking order.

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An OCVLC attorney represented a victim of domestic violence who fled her abusive husband and sought a protective order against him. Prior to the contested hearing, the attorney worked with the victim to prepare for the hearing and having to testify. At the contested hearing, respondent made false allegations against the victim. However, with the assistance of her OCVLC attorney, the victim was able to present evidence and testify in a compelling manner, and the court issued a permanent protective order.

A former OCVLC client contacted us again when she learned that her stalker had filed a motion to vacate the stalking order protecting the victim. An OCVLC attorney worked with the victim to make a new safety plan and prepare for the hearing on the motion to vacate. The attorney represented the victim at the hearing, after which the court denied the respondent's motion to vacate and kept the stalking order in place.

A victim whose family member was killed contacted OCVLC when no restitution was ordered by the court after the defendant was convicted of negligent homicide. An OCVLC attorney filed a claim of violation of victims' rights, asserting the victim's right to restitution, and through collaboration with the district attorney's office and defense counsel was able to resolve the issue without a hearing. An amendment judgment was issued for the full requested amount of restitution to be paid to the victim.