

# OREGON CRIME VICTIMS LAW CENTER NEWSLETTER

May 2018



## THE FIRST ANNUAL HARDY MYERS DINNER

By Rosemary Brewer, Executive Director

On April 12th OCVLC hosted its first annual Hardy Myers Dinner at the Buckman Public House in Portland. More than a hundred supporters of the organization gathered to enjoy dinner and an informative and entertaining program. Guests included former Governor Ted Kulongoski, Washington County District Attorney Bob Hermann and his senior deputy, Kevin Barton; Multnomah County District Attorney Rod Underhill; Columbia County District Attorney Jeff Auxier; former Senator Richard Devlin; and the family of Hardy Myers.

The Honorable Paul DeMuniz, former Chief Justice of the Oregon Supreme Court, was our guest speaker and discussed his involvement in the *Paroline* case, which sought a determination for calculating restitution for victims of child pornography. Justice DeMuniz co-wrote an amicus brief when *Paroline* was being decided by the United States' Supreme Court.

continued on page 2



The First Annual Hardy Myers Dinner



Former Oregon Chief Justice  
Paul J. De Muniz



Representative Knute Buehler and  
Paul Jensen

...The First Annual Hardy Myers Dinner continued

OCVLC also awarded the first Hardy Myers Crime Victim Advocacy Award to Forest Grove Police Chief Janie Shutz. The award was created to honor those who advance the interests of crime victims through advocacy, ingenuity, and/or courage. As a police officer for 30 years, Chief Shutz has been an advocate for victims and has worked to ensure that Forest Grove officers are well-trained in dealing with victims in a trauma-informed manner. She has also shared her story of being a victim of sexual assault as a child, and the lack of support she encountered from the adults in her life. Chief Shutz is dedicated to ensuring other victims have the support she didn't and in her speech after accepting the award said, "When we help victims plan for their own safety, when we give them the information they need to make some choices, when we make sure that they have the opportunity to participate in the criminal justice process — when we do all these things, we give them a voice. We give them some peace. And in reality, we show our humanity to one another."

The dinner was held in conjunction with National Crime Victims' Rights Week, and we look forward to hosting it again in 2019!



Chief Janie Shutz and Board Member Erin Olson



Jon Myers and Hardy Myers III



Andria Seo and Ray Su from Crew Janci LLP



Scott Kocher enthusiastically donating to OCVLC

Please check out all our photos from the dinner [here](#)

Photography by Jacob Denbrook

# Crime Victims' Compensation Program

By Roshelle Cleland, Victim Advocate

In addition to psychological and physical trauma, victims and their families often incur unexpected expenses as a result of crime, including medical and counseling expenses. The Oregon Crime Victims' Compensation Program (CVCP) can help ease the financial burden suffered by victims if they have qualifying expenses that resulted from a crime.

Compensation can be awarded to the victim even when no one is arrested or convicted for the crime. As soon as a police report has been created, a victim has the option to apply for compensation. CVCP can accept a claim without an identified perpetrator or a criminal conviction.

## Who is eligible for compensation?

1. The applicant must have been injured (or is the survivor of someone who was killed) in Oregon.
2. The applicant's physical and/or emotional injuries were the result of a "compensable crime."
3. The applicant reported the crime to the appropriate law enforcement officials within 72 hours.\*
4. The applicant is willing to cooperate fully to apprehend and prosecute the assailant. (If the assailant is not able to be prosecuted due to various reasons, the victim may still be able to apply for compensation.)
5. The applicant was not involved in a wrongful act (i.e. did not provoke the assailant and/or otherwise did not contribute to the injury or death).
6. The applicant applied for compensation within 12 months of the crime.\*

\*This requirement may be waived with good cause determined by CVCP.

**Compensation can be awarded to the victim even when no one is arrested or convicted for the crime.**

## What is a compensable crime?

This means that the crime was not the result of an accident but was the fault of another person.

## What are some examples of the benefits for victims and their families that CVCP can cover?

- "Reasonable" medical, hospital, and counseling expenses, up to \$20,000.
  - Funeral or burial expenses, up to \$5,000.
  - Documented loss of earnings/support, up to \$400/week, with a maximum benefit of \$20,000.
- \*Compensation does not cover lost or damaged property, or pain and suffering.

## How can we help?

OCVLC can help victims and survivors determine if they are eligible for compensation as soon as they have reported an incident to law enforcement. We can also discuss good cause waivers and assist in completion of the application.

CVCP is administered by the Oregon Department of Justice - Crime Victim and Survivor Services Division – for more information or application [click here](#).

# Victim's Voice: A Summary of *State v. Ball*, 362 Or 807 (2018)

By Yazmin Wadia, Staff Attorney

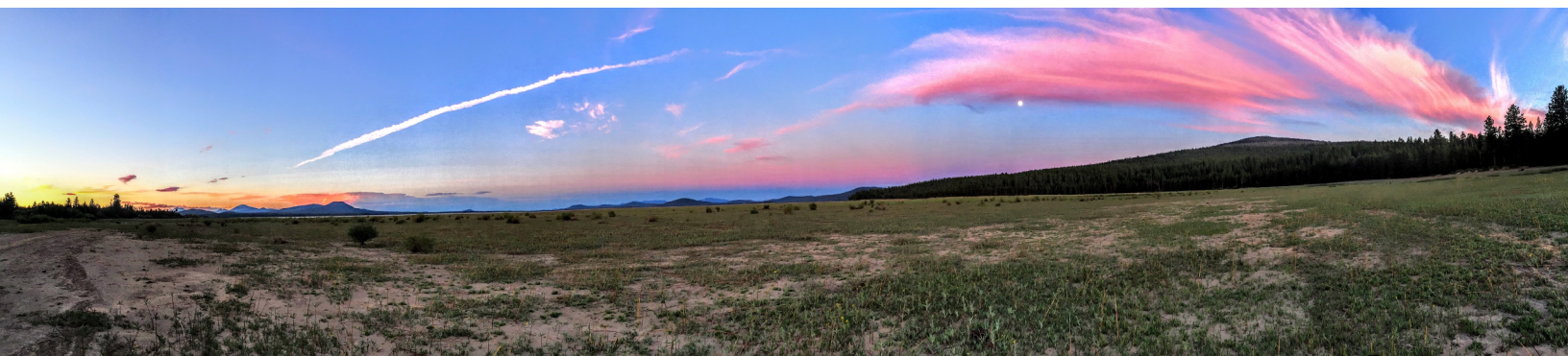
On May 2, 2018 the Oregon Supreme Court issued a decision in the case of *State of Oregon v. Zachary Ball*, 362 Or 807 (2018). The primary issue was whether a crime victim's right to be heard pursuant to Article I, section 42(1)(a) was violated when the trial court interrupted the victim and/or when it prematurely ended her victim impact statement.

In January 2018, defendant was to be sentenced for assault in the fourth degree, coercion, and attempted assault in the second degree, all constituting domestic violence. At sentencing, the victim began to read her prepared impact statement to the trial court. On two occasions, the victim was interrupted by the trial court and ultimately, her statement was terminated when the trial court said, "I think [victim] has said enough," then left the bench. *Id.* 812 -813.

In its holding the Supreme Court analogized a crime victim's right to be heard at sentencing to a criminal defendant's right to allocution. Trial courts have discretion to impose reasonable limitations on both a criminal defendant's allocution and a crime victim to ensure an orderly and expeditious hearing. *Id.* at 819. The Court found that the interruptions by the trial court were in effect an attempt to provide guidance and direction to the victim regarding her statements and were within its discretion. The Court held that a trial court has the authority to limit statements by a victim if they are irrelevant, cumulative, or unfairly prejudicial. Additionally, the trial court may limit a victim impact statement with regards to content or length of statement if the trial court had previously instructed the victim and the victim disregards the trial court's instructions.

However, there was no explanation or rationale as to why the trial court prematurely terminated the victim's impact statement. At the time, the victim was discussing the defendant's family background, asserting that it contributed to the actions taken by defendant. *Id.* 821. Again, the Court analogized to the right of allocution, writing that defendants often explain their family history to attempt to mitigate their culpability. *Id.* The Court found that the victim's statements were relevant, within the parameters previously set by the trial court, and that no additional reasons were provided for the termination. The Court held that the trial court did violate the victim's constitutional right to be heard under Article 1, section 42(1)(a) when it terminated her victim impact statement. *Id.* 821-822.

The Court reversed the order of the trial court, defendant's sentence was vacated, and the case was remanded to the circuit court for resentencing pursuant to *State v. Barrett*, 350 Or 390 (2011).



# RECENT OCVLC CASE SUMMARIES

OCVLC remains committed to serving victims throughout the criminal justice process. Here are some brief summaries of our recent cases:

An OCVLC attorney represented a victim in a civil stalking order matter in Yamhill County. The offender also had criminal charges pending stemming from the same conduct. The victim's attorney was able to advocate for her client in both the stalking order case and the criminal case and was successful in resolving both cases at the same hearing. This relieved the victim of having to testify in multiple hearings and provided the best resolution for her ongoing safety.

The Oregon Crime Victims Law Center represented the family of a murder victim at a hearing before the Oregon Board of Parole and Post-Prison Supervision concerning the inmate's release date. The victim's mother was unable to attend the hearing, so an OCVLC attorney represented her and her family to ensure that their right to be heard was asserted. At the hearing the defendant did not take full responsibility for the murder. The OCVLC attorney argued against release on behalf of the victim's family, as did the district attorney's office. The Parole Board deferred the defendant's release date for four years.

A victim who was elderly and disabled was referred to the Oregon Crime Victims Law Center when she sought representation for a contested Elderly Persons and Persons with Disabilities Abuse Prevention Act restraining order (EPPDAPA) against a family member. The respondent in the restraining order was also being investigated for abuse by the Adult Protective Services Division of the Department of Human Services. After several months of negotiation with respondent's attorney a settlement was agreed upon that left the restraining order in place, and allowed victim to avoid the trauma of a long contested hearing.

A victim of domestic violence was referred to the Oregon Crime Victims Law Center for assistance with a restraining order hearing. The victim was able to leave the home with the assistance of law enforcement, however respondent took her service animal and refused to return it. Respondent had demonstrated a pattern of frightening stalking behavior with the victim and others, as a result the victim was very frightened to appear at the hearing. With advocacy and support, the victim appeared at the contested hearing with her OCVLC attorney and the restraining order was upheld. OCVLC provided client with information and resources that allowed her to file a claim in small claims court. As a result, respondent returned victim's service animal to her.

## NEW STAFF MEMBER

### ROSELLE CLELAND - VICTIM ADVOCATE AND ADMINISTRATIVE SPECIALIST

Roshelle is a Public Health graduate from Oregon State University. Directly after college, Roshelle worked at CARDV, a non-profit organization providing services to survivors of sexual and domestic violence. As CARDV's Legal Advocate, she worked in the courthouse supporting clients to obtain protective orders and helped them navigate victims' rights within the criminal justice system. Roshelle is passionate about social justice, community-based work, and addressing intersecting forms of violence. When Roshelle isn't in the office, you can find her at the gym, eating at one of Portland's restaurants, or exploring Oregon's great outdoors with her dog.



- STEVE DOELL**  
PRESIDENT AND FOUNDING MEMBER
- CHARLES TAUMAN**  
VICE PRESIDENT
- ERIN OLSON**  
SECRETARY AND FOUNDING MEMBER
- GAYNELLE JENSEN**  
TREASURER
- JOHN STEIN**  
FOUNDING MEMBER
- PETER GLAZER**  
MEMBER
- PETER DEUEL**  
MEMBER
- JOSH LAMBORN**  
MEMBER
- CHRIS MASCAL**  
MEMBER

## STAFF



**ROSEMARY BREWER**  
Executive Director



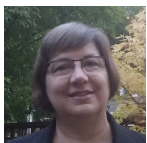
**NELLY WRIGHT**  
Senior Staff Attorney



**YAZMIN WADIA**  
Staff Attorney



**EMILY LABRECQUE**  
Staff Attorney



**PAM MADAUS**  
Finance Manager



**ROSELLE CLELAND**  
Victim Advocate and Administrative Specialist



## WE SERVE OREGON

We serve clients across the state and we are looking for more referrals from outside the greater Portland area. Please contact us to refer a crime victim who may benefit from our services, or if you are an attorney interesting in volunteering to provide pro bono legal services to victims.

# HOW TO CONTACT OCVLC

**Phone: 503-208-8160**

**Email: [info@ocvlc.org](mailto:info@ocvlc.org)**

**Fax: 1-866-838-4142**



Twitter



Facebook



Hardy Myers Crime Victims Advocacy Award recipient, Janie Schutz with friends and family.

**YOUR  
DONATION  
HELPS  
CRIME  
VICTIMS**

OCVLC is a 501(c)(3) non-profit organization funded by grants and private donations. All of our legal services are offered at no cost to the crime victims we serve. By donating to OCVLC, you can make a huge difference in the life of a crime victim.

[Click Here to Donate](#)