



# OCVLC NEWSLETTER



OCVLC STAFF: ROSEMARY BREWER, EMILY LA BRECQUE, MICKEY KARNAS, PAM MADAUS, JACK STAUNTON, & RACHEL GARRETT

## From the Executive Director

BY ROSEMARY BREWER

Thanks to all who joined us for the Sixth Annual Hardy Myers Gala in April, our only fundraiser of the year. We were so grateful to have the Myers family with us for the evening and for their ongoing support. This year's Advocacy Award went to Chanel Thomas, an advocate with the Multnomah County District Attorney's Office who sadly passed away a year ago. Chanel was kind, generous, and empathetic, and immediately connected with people in such a warm and authentic way. She is greatly missed. Senior Deputy District Attorney Mariel Mota accepted the award on Chanel's behalf, and did a wonderful job describing Chanel's work, her personality, and the impact she left upon all of us who were privileged to work with her. We were honored that Chanel's mother, Sherry Pittman, and her close friend, Bre'Miah Hollie, were with us as well.

Thank you to this year's sponsors, and to those who donated auction and raffle items. We could not hold this event without your support, and we are so appreciative!

Inside this quarter's newsletter you'll find photos from the event, resources for mental health services, information about Oregon's advocate-victim privilege, and updates on the work we are doing. Happy Spring!

# 6th Annual Hardy Myers Gala

## Sixth Annual Hardy Myers Gala Benefitting Oregon Crime Victims Law Center Thank you to Our Sponsors

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# 6th Annual Hardy Myers Gala



# 6th Annual Hardy Myers Gala



# Mental Health Awareness Month

BY: MICKEY KARNAS

**May is National Mental Health Awareness Month (MHAM).** MHAM began in the United States in 1949 and was started by Mental Health America. Mental health awareness is crucial to help break down the stigma that often surrounds mental illness, making it easier for individuals to seek help without fear of judgment. This can promote better access to treatment, resources and support services, and improve overall community health and resilience. By promoting understanding and empathy, mental health awareness encourages healthier workplaces, schools, relationships, and families. Supporting healthy communities is essential to supporting victims of crime.

In Oregon, there are a number of community services to access mental health treatment and support:

**Behavioral Health Support Line**

Call: 1-800-923-HELP (4357)

**Suicide & Crisis Lifeline**

<https://www.linesforlife.org>

Call or Text 988

**Alcohol and Substance Helpline**

Call: 800-923-4357

**Problem Gambling Helpline**

Call: 877-695-4648

<https://www.opgr.org>

**Military Helpline**

Call: 888-457-4838 anytime

Text: MIL1 to 839863

between 0900-1500 PST

**Youthline**

Call: 877-968-8491 anytime

Text: teen2teen to 839863

4pm-10pm PST

Online chat available at

[OregonYouthline.org](https://OregonYouthline.org)



# What is Certified Advocate Victim Privilege, and how can I help preserve it?

BY EMILY LA BRECQUE



Confidential communications between a victim and the certified advocate or qualified victim services program in the course of safety planning, counseling support, or advocacy services and the records that are created or maintained in the course of providing those services are privileged, but which service providers does this apply to, and what should they do if these records are requested? To preserve this privilege and to protect victims accessing services, providers must understand and help victims to understand what services and communications are protected by privilege and what should happen if a third party seeks protected information.

In 2015, House Bill 3476 - now codified at ORS 40.264, Rule 507-1(2)(a) (privilege) and ORS 147.600 (advocate-victim confidentiality) - passed the Oregon House and Senate with unanimous bipartisan support. The bill's sponsors emphasized that the overarching goal was to protect survivors from having their efforts to seek help used against them. All recognized the vital need for the availability of confidential services for victims of domestic violence and sexual assault. These services not only benefit the victim but also have the potential to protect the community as a whole by seeing domestic abusers prosecuted for their crimes when survivors feel supported and able to report to law enforcement.

## **Who is a certified advocate?**

To qualify as a certified advocate, the advocate must have completed at least 40 hours of training in advocacy for victims of domestic violence, sexual assault, or stalking approved by the Attorney General and be an employee or volunteer at a qualified victim services program.

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# What is Certified Advocate Victim Privilege, and how can I help preserve it?

BY EMILY LA BRECQUE

## **What is a qualified victim services program?**

Qualified victim services programs include nonprofit, community-based programs that receive money administered by the state Department of Human Services or the Oregon or United States Department of Justice, or a program administered by a tribal government that offers safety planning, counseling, support or advocacy services to victims of domestic violence, sexual assault or stalking; or A sexual assault center, victim advocacy office, women's center, student affairs center, health center or other program providing safety planning, counseling, support or advocacy services to victims that is on the campus of or affiliated with a two- or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant.

*Governmental programs or systems-based advocates, such as advocates employed by or volunteering with prosecutors' offices and law enforcement departments, do not fall under the statutory definition of qualified victim services programs, and communications with and records held by those advocates are not privileged.*

## **What kind of services does this apply to?**

This privilege applies to services provided to victims of domestic violence, sexual assault, or stalking who are seeking safety planning, counseling, support, or advocacy services from a qualified victim services provider.

## **What is protected?**

Confidential communications between a victim and the certified advocate or qualified victim services program in the course of safety planning, counseling support, or advocacy services, and records that are created or maintained in the course of providing services regarding the victim are protected by privilege. However, the confidentiality protections for communications between survivors and certified advocates are based on the communications being made through the qualified victim services program, *not the individual advocate*. Work performed by advocates *outside the purview* of their services program may not be protected. Thus, advocates need to understand what services fall within their "purview."

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# What is Certified Advocate Victim Privilege, and how can I help preserve it?

BY EMILY LA BRECQUE

## **Under what circumstances can protected information be disclosed to a third party?**

The only exception to this privilege is for the disclosure of confidential communications, only to the extent disclosure is necessary for defense, in any civil, criminal, or administrative action that is brought against the certified advocate or against the qualified victim services program by or on behalf of the victim. This exception is exceptionally narrow; in fact, it is more limited than the exceptions to other privileges, including physician-patient and psychotherapist-patient privileges. Despite this, it is increasingly common for qualified victim services programs to receive subpoenas for their records or for testimony by their advocates, and if no objection is made, for courts to order the production of these privileged records.

This privilege is held by the person who received services, and it is not at the discretion of the program to waive this privilege and comply with a subpoena. Qualified victim services programs should preemptively consult with an attorney about their obligation and create a procedure for the immediate notification of the victim if such a request for records is received. They should also make a plan for the organization's response to the request and ensure that staff and volunteers understand their role in these situations and what services and communications are protected by privilege.

By quickly notifying participants of these requests and their right to seek an attorney, the victims are given the best opportunity to make informed decisions about their privacy. OCVLC cannot represent victim service programs but can and does represent victims whose privileged or confidential records are sought in a criminal case.



# Case Summaries

BY JACK STAUNTON

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An OCVLC attorney recently represented a client in a protective order renewal hearing involving two respondents. The client was fearful for her and her children's safety. The OCVLC attorney wrote a hearing memo outlining why the protective order should be renewed, and arranged witnesses to appear at the hearing. The protective order was renewed by the court for an additional two years and the client expressed gratitude after the hearing for the support and advocacy she received from OCVLC.

A victim of child sexual abuse contacted OCVLC after learning that part of their abuser's case had been overturned due to a non-unanimous jury verdict and that the prosecutor had determined that the charges would not be refiled. An attorney from OCVLC organized a meeting with the victim and prosecutor, after which the prosecutor agreed to retract their decision not to refile charges if a special prosecutor was found to handle the case. OCVLC assisted the victim in reaching out to the Department of Justice, a special prosecutor was appointed, and the charges were reinitiated. OCVLC continued to represent the victim, and after the victim participated in a judicial settlement conference, the abuser accepted a plea, and the victim and their family gave impact statements at sentencing.

OCVLC's Victim Advocate accompanied a client to her restraining order hearing, where an OCVLC attorney represented her. Before the hearing, our advocate met with the client to provide support, and they debriefed afterward. The client expressed relief at having assistance throughout the process, noting that the support she received simply walking to and from the courthouse made her feel much more secure. Following the successful hearing, our advocate reconnected with the client to link her with additional support services and resources.

An OCVLC attorney recently assisted a victim in a protection order hearing against a family member. The client required the use of an interpreter, and previously had difficulty expressing the severe safety concerns he had when trying to communicate with the court. The attorney was able to represent the client at a hearing, assisting him through his testimony, and ultimately ensuring that the protection order remained in place.