



Newsletter January

FROM THE EXECUTIVE DIRECTOR

In 2019 the Oregon Crime Victims Law Center is celebrating ten years of advocating for and representing victims of crime throughout the state of Oregon! Since opening in 2009, OCVLC attorneys and advocates have assisted more than 1,100 crime victims in Oregon. We have grown from having just one part-time attorney to having a staff of seven, including five attorneys. This past year OCVLC expanded, opening an office in Bend with an attorney who is representing victims in Deschutes, Jefferson, and Crook counties.

Last year was a very busy year for OCVLC. In addition to the expansion into Central Oregon, we assisted more than 275 victims, our highest ever total in one year. OCVLC attorneys filed claims of crime victims rights' violations on behalf of victims, represented survivors of sexual assault and domestic violence in contested restraining order hearings, and filed motions to quash subpoenas seeking crime victims' records. We continued to represent families of homicide victims before the Board of Parole and Post-Prison Supervision, and in one notable case, appealed a trial court decision to the Oregon Supreme Court. In that case, OCVLC attorney Yazmin Wadia represented a victim who was not allowed to give her full impact statement at the sentencing of the man who had assaulted her. As a victim of domestic violence, it was critically important to her that she be allowed to address the court concerning the crime and the relationship, but the judge left the bench prior to her completing her statement. Ms. Wadia filed a claim of violation of the victim's rights, which the judge denied, so OCVLC appealed the denial to the Supreme Court. The Court ruled in favor of the victim, holding that by walking off the bench the judge denied the victim her Constitutional right to be heard – and further cementing that right for other victims.

We look forward to continuing our core mission of advocating for victims and providing a voice for victims to ensure justice for all.

Rosemary Brewer, Executive Director



Notification and Consultation with Minor Victims and their Guardians

Cases involving minor victims of child abuse are some of the most difficult and sensitive cases that come through the criminal justice system, and working with child victims and their guardians can present challenges for prosecutors and victim advocates. In Oregon, *both* the minor victim and the legal guardian of the minor victim are considered a “victim” in the criminal case per ORS 131.007 and 147.500. A victim is a “person or persons who have suffered financial, social, psychological or physical harm as the result of a crime...**and, in the case of a minor victim, the legal guardian of the minor.**” This means that DA’s offices need to inform both the minor victim and the legal guardian of their rights, including the rights to notice, to be heard, and to give input into the case. Minor victims of violent felonies, which includes felony sex crimes, specifically have the right to be consulted regarding plea negotiations (ORS 147.512(2)(a)).

Though minor victims can be traumatized and suffer mental or behavioral health consequences as the result of the crime, this doesn’t mean that they cannot meaningfully participate in the criminal justice system, nor should they be shielded from notifications about the case or involvement in plea negotiations. Unfortunately, it can also be the case that the legal guardian of a minor victim is unsupportive of criminal charges or does not believe the minor victim even though the State has decided to go forward with prosecution. This dynamic is why it’s very important for prosecutors and advocates to have a plan for communicating with minor victims in cases where the legal guardian is not supportive of the victim.

NOTIFICATION

Prosecutors and victim advocates should make best efforts to notify not only the legal guardian in the case, but, where age appropriate, to notify the minor victim also. There is no case law or clear guidance in Oregon statute as to at what age a minor victim is deemed capable of receiving information about a criminal case on their own. The circumstances of the case, the minor’s home situation, and other factors specific to the maturity level of the minor and the ability of the minor to communicate should be taken into account. For very young minor victims, prosecutors and victim advocates will be communicating with the legal guardian only.

A minor victim who is capable of communicating with the State directly may also express that they don’t want updates or notifications, or that they prefer to only have their legal guardian handle receiving notifications from the DA’s office. It’s important to establish with the minor child how they would like to be notified and continue to communicate with them as the case moves forward about whether they would like to continue to receive notifications, receive them in a different way, or if they would like to have a legal guardian handle the issue.

...continued to the following page





... Working with Minor Victims continued

Unfortunately, for many minor victims of abuse, stability in their life becomes elusive once a disclosure is made and the criminal justice process begins. Prosecutors and advocates should make their best efforts to continue to contact minor victims even if they are brought into the dependency system or are removed from an abusive home. In a case where a minor victim has been removed from their parents and is in foster care or other care directed by Department of Human Services, take care to learn who is the legal guardian of the minor victim. In some cases, it may be DHS – and in that case, a DHS representative should be notified just as any other legal guardian of a minor victim would be.

CONSULTATION

Conversations about plea negotiations are one of the most important conversations a prosecutor has with the victim, and for minor victims this is no exception. It may be difficult or uncomfortable to have conversations about potential sentences and weaknesses in the case, but nonetheless these are conversations that minor victims deserve to have access to, just like any other crime victim. Bringing in child victims to discuss these things in person, instead of over the phone or through writing, is one of the best ways to uphold this right and give the victim the feeling they are truly being heard. Be careful of relying on a parent, foster parent, relative, or friend to relay information to the minor victim. This can result in misunderstandings or the failure of information to reach the minor victim at all.

NON SUPPORTIVE GUARDIAN

If the legal guardian of the minor victim is actively working against the victim's best interests in the case, there are steps that a prosecutor can take to try to protect that minor victim's rights. Consider petitioning the court to appoint an attorney for the minor victim, or a guardian ad litem. Keep in mind that the minor victim has crime victims' rights that are independent of the legal guardian – *both* are considered a victim under Oregon law and this means that a legal guardian cannot supersede decisions made by a minor victim about their rights in the criminal case. Making the effort to ensure a minor victim is truly aware of what's going on in the case and is not being shielded or misinformed by a guardian is important, and part of why these cases are difficult.

CONCLUSION

In order to truly honor the rights of minor victims, including the right to notification and to consult with the State about plea negotiations, extra efforts must be made to ensure the minor victim is receiving full and accurate information. Though it is yet another layer on top of what are already difficult cases, it's important to uphold the rights of minor victims and ensure that they also have a meaningful role in our criminal justice system.

Melanie Kebler, Senior Staff Attorney



NATIONAL STALKING AWARENESS MONTH

What is stalking?

1 in 4 women and 1 in 13 men report being a victim of stalking in their lifetime^[1], but what does that really mean for you? Stalking behaviors can vary from making threats to hurt you, your loved ones or pets, showing up at your location, monitoring your phone or computer use, using technology to track your movements, sending unwanted gifts, driving by your location, and many others. Stalking behaviors seek to cross the boundaries you have set, in order to **control** and frighten you. Sometimes we excuse or ignore stalking behaviors, afraid that we will not be believed or will be seen as overreacting. Stalking behaviors are more common than many people realize, and if you are experiencing them, it is reasonable and valid for you to be fearful and overwhelmed. You do not have to accept stalking behaviors as normal.

If you feel unsafe, trust your instincts. Take threats seriously and contact local law enforcement, a crisis hotline, or victim services agency in order to create a safety plan and learn about resources available. It can be helpful to keep track of the contact the stalker makes with you including the time and date and any witnesses. Keep emails, text messages, voicemails, call logs, letters, or notes. Take pictures of any injuries or damage that the stalker causes.

In Oregon, some victims of stalking may be eligible for a Stalking Protective Order. This order has strict requirements under the law and is one of many tools that can be part of a larger safety plan. If you are not eligible for a Stalking Protective Order it does not mean that your concerns are not legitimate. By speaking to crisis advocates you can learn about other resources to include in your safety plan.

National Network to End Domestic Violence Technology Safety Toolkits

The toolkits below contain helpful information for victim service agencies and survivors, which were created by NNEDV Safety Net Project and may be useful to survivors, victims, and providers who provide support or legal services.

- ▶ [Survivor Toolkit](#) - general tech safety, staying safe online with social media, and more.
- ▶ [Agency Toolkit](#) - best practices & policies.
- ▶ [Legal Systems Toolkit](#) - understanding and investigating technology misuse.
- ▶ [Confidentiality Toolkit](#) - best practice in maintaining survivor privacy and trust.

Emily LaBrecque, Staff Attorney

[1] http://victimsofcrime.org/docs/src/stalking-fact-sheet_english.pdf?sfvrsn=4





PROTECTION FROM STALKING

Who is eligible for a Stalking Protective Order?

When applying for a Stalking Protective Order (SPO) there is no requirement that you have any relationship with your stalker. However, many people experiencing intimate partner violence are stalked by their abuser. An estimated 76% of women killed by an intimate partner have been stalked by their abuser^[2]. You may qualify for multiple types of restraining orders, and already having a restraining order does not disqualify you from seeking a Stalking Protective Order.

You do not have to be 18 years or older to be eligible for a SPO, nor does the person you are seeking one against need to be 18. If you are under 18 an adult will have to act as your representative in the case. If your stalker is under the age of 18 the court will appoint a guardian ad litem to help them in the case.

Stalking Protective Orders are valid for a longer period of time than other Oregon restraining orders. The court will consider whether you, an immediate family member, or a member of your household have been contacted at least twice in the past two years. To be eligible, each contact must have been unwanted and made you feel alarmed or coerced in a way that the average person would agree was reasonable. These contacts must have also caused you to feel reasonable fear for your safety or the safety of your immediate family or household member.

A common difficulty that people face when seeking a SPO is when all or most of the unwanted contacts have been spoken or written. Many stalkers send frightening or upsetting text messages, letters, emails, or say frightening or upsetting things in person or by phone. Under Oregon law, the court has many limitations as to when they can grant a SPO. The contact must make you fear for your personal safety, contain direct threats of harm to you, and the court

must find that the stalker is likely to carry out those threats. This can be very frustrating for people who have received frightening spoken or verbal contacts with no in person incidents, as those contacts may not be sufficient for a Stalking Protective Order.

Stalking Protective Orders are permanent and therefore are more difficult to get. However, not being eligible for a SPO under the specific limits of Oregon's laws does not mean that your concerns and fears are not legitimate. You should still take them seriously and seek assistance from law enforcement or a community advocacy organization.

What does a Stalking Protective Order do?

Most Oregon restraining orders last for one year. Stalking Protective Orders are permanent. They may contain conditions that prevent your stalker from having contact with you, waiting outside of your home, school or work, or these places of your family members.

If the person who you have a SPO against violates that order you should report the violation to law enforcement immediately. The first violation of a SPO is a class A misdemeanor, and the second violation is a class C felony.

The possibility of a permanent protective order and the enhanced penalties for violating a Stalking Protective Order are both reasons to consider a Stalking Protective Order, even if you have another restraining order in place. If you are trying to decide whether to apply for an additional protective order or which type of order will best protect you, you should speak with an attorney.

Emily LaBrecque, Staff Attorney

[2] http://victimsofcrime.org/docs/src/stalking-fact-sheet_english.pdf?sfvrsn=4





The New Trend: Automatic Voter Registration

When someone registers to vote in Oregon, their voter registration is considered public record and available to any individual with their name and date of birth. Oregon voter registration records include address and political party affiliation. Privacy protections of voters are very important to survivors of domestic violence, sexual assault, stalking, and human trafficking who are concerned about their personal information being accessed by an abusive person.



In 2015 Oregon passed a law to automatically register voters when they apply for, renew or replace a drivers' license, ID card or permit at the state Driver and Motor Vehicle Services Division. Eligible voters will then receive a card in the mail that will give them the option to opt out but survivors may be unaware this card is in the mail or miss the deadline.

Survivors have to navigate complex and confusing systems to maintain their privacy and may be unaware of this new law and that their voter registration is public. It is critical that survivors be aware of how their voter information is used in order to maintain their safety.

There are options for survivors to conceal or use a safe address for their voter registration. Anyone is able to contact the Oregon Driver and Motor Vehicle Services Division and opt out within the allowed 21 day time frame. Privacy should not be an acceptable reason a survivor cannot vote.

The [Address Confidentially Program \(ACP\)](#) is a free mail forwarding service in Oregon, which allows survivors to have a safe mailing address. This gives survivors the option to use the mailing address and keep their residence confidential. Participants can use this address for obtaining an Oregon driver's license or ID card, registering to vote, enrolling children in school, first class delivery and registered mail.

Survivors also have the option to conceal their name and address from public records by completing an SEL 550 and getting approval from the local county clerk's office with the required documentation such as a protection order, court order, or ACP card.

[Check your voter registration here](#) to know what personal information is public.

Roshelle Cleland, Victim Advocate

The Second Annual Hardy Myers Dinner and Tenth Anniversary Celebration



We are proud to announce
Mary Elledge as the award
recipient for the
**Hardy Myers Victim
Advocacy Award**

Mrs. Elledge is the founder of
the Northwest Chapter of
Parents of Murdered Children
(POMC), an organization that
provides support for those
who have lost a family
member to homicide.

WHEN

Wednesday,
April 10, 2019
6:00 pm

WHERE

The Loft at 8th Avenue
2010 SE 8th Ave
Portland, Oregon 97214

TO PURCHASE

Please visit our website
at www.ocvlc.org or
click here to inquire
about tickets and
sponsorships

BENEFITING

Oregon Crime Victims
Law Center





RECENT OCVLC CASE SUMMARIES

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

An OCVLC attorney represented a victim of domestic violence seeking to make a report of potential violations of restraining order by the defendant, her husband, who is a police officer. The defendant was also facing charges of Domestic Violence Harassment, and the OCVLC attorney assisted the victim in giving input into plea negotiations. When the defendant agreed to a plea deal, the victim's attorney assisted her in advocating for no media cameras being allowed to film her or her children in the courtroom so she could feel more comfortable giving her victim impact statement. The victim gave a powerful statement in the courtroom with her attorney at her side.

A Spanish-speaking victim was referred to OCVLC because she was frustrated that the District Attorney's office had not pursued a felony charge of domestic violence and she was having a hard time communicating with their office about the pending criminal case against her husband. Upon researching the case, OCVLC discovered that the felony charge had been dropped because the DDA had filed a motion stating that language barriers had prevented them from getting the victim to grand jury. OCVLC represented the victim and helped her establish a better relationship with the DA's office. The case was reassigned to a different DDA and taken through grand jury, where the felony charge was indicted.

A victim was referred to OCVLC by law enforcement for assistance in a criminal domestic violence case and safety planning. The victim was subjected to multiple incidences of physical abuse after moving to Oregon from out of state and was isolated from any support system. OCVLC was able to provide advocacy through ongoing safety planning. When the offender was released on bail OCVLC connected the survivor to a crisis advocacy service who provided the victim with a bus ticket to move back with family out of state. OCVLC continues to serve as a liaison for the victim and District Attorney's Office throughout the criminal case after she did not feel she was being informed or her voice was being heard.

A disabled victim went to the Gateway Center for assistance her restraining order. The respondent continued to harass and contact the victim in violation of the order. Unfortunately, the restraining order had recently expired and the victim had to file a new order. OCVLC represented her at the contested restraining order hearing and the order was upheld.



HELP US SPREAD THE WORD

Respecting crime victims' rights is a community issue. Join the conversation by staying informed about events, statistics, and cases by following us on [Facebook](#) and [Twitter](#).

LEGISLATIVE UPDATE

The 2018 legislative session brought forth new legislation that directly impacts victims. Starting January 1, 2019:

- ▶ Closing the "boyfriend loophole" - HB 4145 expands on Oregon's existing gun ban for convictions of domestic violence to include intimate partners who do not have children together as well as household members. The firearms ban also includes individuals who have been convicted of stalking under ORS 163.732. See ORS 166.255.
- ▶ Reclassification of Strangulation - SB 1562 reclassifies strangulation as a Class C felony if the victim is a family or household member. See ORS 163.187.

DONATE

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.

2018 YEAR IN REVIEW

Last year was a very busy year for OCVLC. In addition to the expansion into Central Oregon, we assisted more than 275 victims, our highest ever total in one year. OCVLC grew to a staff of seven, including five attorneys. Our new office is located in Bend, staffed by an attorney who is representing victims in Deschutes, Jefferson, and Crook counties.

View our 2018 Year in Review here.

2018 YEAR IN REVIEW

Our mission is to advocate for crime victims to ensure their independent voices are heard and their legal rights are protected.

OCVLC's team grew to 5 attorneys, 1 victim advocate, and 1 financial manager

OCVLC expanded, placing an office in Bend that serves Crook, Jefferson, and Deschutes Counties

TAKING ACTION

278 victims were provided with legal services or support in 29 counties in Oregon

Indicates counties served in 2018

220 cases opened

15 percent of cases involved a child victim

20 percent of clients reported having a disability

CREATING CHANGE

100+ technical assistance calls provided by OCVLC staff

15 community education presentations provided reaching over 300 attorneys and advocates

Cases by Primary Victimization

"I felt scared and withdrawn from the community after the abuse. I did not know where to go for help. I received more support and legal advice than ever expected. From start to finish my OCVLC attorney was phenomenal!"
-Client

7412 SW Beaverton-Hillsdale Hwy, Suite 209, Portland OR 97225 | Phone: 503-208-8160 | Email: info@ocvlc.org | Web: www.ocvlc.org

