

Volume 1, Issue 2
June 22, 2010



“...The Good Fight”

Oregon Department of Justice Domestic Violence Prosecutor Newsletter

Inside this issue:

SPOTLIGHT on LINCOLN COUNTY: Lincoln County Domestic Violence Court and DART program

By Drew Moore, Lincoln Co. DDA

Ready, Set, Learn: Training Opportunities 2

Info, Info, Info: Resource Ideas 2

Article: “Firearms and Domestic Violence, a Deadly Combination.” 3

Article: “Be in the “NO”: Knowing the No-Contact Statutes in the Criminal Code.” 4

They Said What?? 4

Help me Help you! 5

Each edition of the newsletter will have an article that “spotlights” the work of a county, agency, or individual in the area of Domestic Violence. If you have a suggestion for this column, let me know!

Lincoln County is continuing to improve its response to Domestic Violence through collective efforts of prosecutors, law enforcement, local community victims' advocates and batterer intervention programming, the courts, and other community partners.

DV Court:

Through a collective effort of the Lincoln County Courts, Lincoln County DA's Office, the Domestic Violence Council, and other community partners, Lincoln County recently implemented a new tool to combat Domestic Violence with the creation of a Domestic Violence Court. The DV Court processes all cases in which at least one count is a person DV crime (also includes Harassment cases), all stalking cases, and all cases involving violation of protective orders. Cases go through DV Court on either a Deferred Sentencing Agreement (DSA) eligible or a Non-DSA eligible track and all of them are generally resolved with plea, entry into a DSA or sentencing, or a trial 90 within days.

Factors that go into determining whether to offer a DSA include criminal history, including DV arrests without conviction, the severity of the crime, and are ultimately at the discretion of the DDA. Following either a DSA plea or conviction, defendants have multiple compliance reviews set with the court to appear to ensure they are compliant with Domestic Violence classes, drug and alcohol treatment, or any other component they have been ordered to complete. The first is 60 days after plea and/or sentencing or release from custody, followed by another in

180 days, and finally at the end of a year. These can be modified to increase in frequency if the defendant is not compliant. No contact orders are not lifted until the defendants have proven to the court at the compliance reviews that they are actively engaged and compliant with any court ordered conditions.

DV Prosecutors and DART:

Two DDAs are assigned to prosecute DV cases in Lincoln County through an Encourage Arrest Grant. The Arrest Grant helps fund both prosecutors, a probation officer to supervise high-risk misdemeanor DV offenders, and a community victim's advocate at My Sister's Place, and forms the basis for a Domestic Abuse Response Team (DART). Other members of the DART are the DA's Office Victims' Advocate and members of Crossroads Nonviolence Programming, the local Batterer Intervention Program.

Following arrest the DV DDAs charge the cases. At the time of charging, the DV DDA's make additional evidence requests including convictions and/or police reports from prior cases, photos, 911s, medical reports etc., prepare a risk assessment to determine whether the defendant is considered high risk and would meet criteria to be supervised by the DV PO (for misdemeanor cases), designate the case as DSA eligible or not and whether it goes to DV court and notify members of DART.

In addition to prosecuting DV cases, the DV DDAs conduct training at briefings for law enforcement on DV issues such as dual-arrest, primary aggressor, investigation needs, and strangulation. Additional law enforcement training has included meeting with Fish and Wildlife Troopers about field contacts with people convicted of misdemeanor DV with federal firearms bans. Finally, the DV DDAs also regularly meet with

judges in the county to try to give additional information to them about DV issues.

A Couple of Interesting Cases:

In the last year or so, there have been two cases that have been submitted to the DA's Office as Strangulation cases that were eventually indicted as Attempted Murder cases after additional conversations with the victims and observation of the extent of their injuries. One of these cases has been resolved with a plea of guilty to the Attempted Murder. The other is still pending.

On the amusing side, there was a letter to the editor recently of a person that was outraged about people who hurt families, women, and children that may be let out of jail early. The letter was signed by its author. Just below the letter, in the crimes report section, was a report of a recent case where the defendant was convicted of 2 counts of Assault IV DV, 2 counts Harassment, Interference with Making a Report, and Criminal Mischief 2 by jury trial...the same person who had signed the editorial. This same defendant, after being released, was arrested again for DV and was sentenced to 30 months for another DV Assault.

We are also very much looking forward to the opening of a kennel at My Sister's Place that will allow the women's shelter to provide a place for victims to bring their companion animals.

Conclusion:

While we are continuing in our efforts to improve our response to Domestic Violence in Lincoln County, we are excited about the progress being made. If there are any questions about our response, or suggestions on ways we can improve, please feel free to contact us.

“Ability may get you to the top, but it takes character to keep you there.”

- John Wooden

READY, SET, LEARN: LOCAL TRAINING OPPORTUNITIES FOR YOU!

Each issue of the newsletter will provide a brief review of the trainings that have recently taken place and those that are scheduled for the future. Read about what you've missed and what you can still attend. Look ahead and mark your calendars!

May (23-26): The DOJ sponsored the attendance of 50 Oregon law enforcement

personnel from 13 agencies at the recent Western States' Hostage Negotiation Conference. This year's conference placed a significant focus on the dynamics of a Domestic Violence Hostage situation.

June (7-8): The DOJ sponsored the attendance of five (5) officers and three (3) prosecutors at the Intimate

Partner Stalking Symposium in Medford, OR.

July (20-22): 120 attendees from 40 agencies (law enforcement, advocates, and prosecutors) will be attending this conference that will focus on commonly under-investigated areas of DV.!

July (27): ODAA: "Bridging the Communication Gap between the prosecutor and DV officer."

LOOKING AHEAD:

October is FULL of training opportunities. Besides "Baby DA" school and "Advanced", there will be a DV "Boot Camp" October 13-15 in Newport. More info in the next newsletter!

NATIONAL TRAINING OPPORTUNITIES

July (12-13): in Baltimore, MD

"Strengthening Firearms Protections Through a System-wide Response." - Hosted by National Network to End Domestic Violence.

http://www.ncdsv.org/images/NNEDV_StrngtheningFirearmsProtections_7-2010.pdf

July (20): (Webinar)

"System Accountability for Sexual Assault Cases." - Hosted by WATCH

<http://www.watchmn.org/training>

July (29-30): in Duluth, MN

"Holding Batterers Accountable: Best Practices for Each Agency." - Hosted by Domestic Abuse Intervention Programs.

<http://www.theduluthmodel.org/trainingschedule.php>

Looking Ahead:

January (10-11): in Austin, Texas

"Trial Run: Expert Witnesses in Domestic Violence Cases."

- Sponsored by National Center on Domestic and Sexual Violence and The University of Texas at Austin.

http://www.ncdsv.org/expertwitness_dv_2011.html

"Be more concerned with your character than your reputation, because your character is what you really are, while your reputation is merely what others think you are."

-John Wooden

INFO, INFO, INFO: RESOURCE IDEAS FOR THE DV DDA

"Talent is God given. Be humble. Fame is man-given. Be grateful. Conceit is self-given. Be careful."

-John Wooden

While looking high and low for the best ways to assist prosecutors and law enforcement, I have stumbled upon a number of really wonderful resource websites.

There are infinite ways that these resources could be helpful: for pure education's sake that you can then translate to the courtroom

during jury selection, for instance, Perhaps some of the information will be helpful in responding to motions, or provide you a deeper understanding about a victim's perspective in a Domestic Violence incident and subsequent prosecution.

I know DV DDA's are extraordinarily busy, but when

you have a little time, check them out. I think you'll be pleasantly surprised:

- ◆ Crisis Connection: www.crisisconnectioninc.org
- ◆ National Resource Center on Domestic Violence: www.nrcdv.org
- ◆ Break the Cycle: www.breakthecycle.org

Firearms and Domestic Violence: A Deadly Combination

Firearms are the most commonly used weapons in Domestic Violence homicides. Since January of 1999, there have been 122 Domestic Violence related deaths in Oregon. Of those, at least seventy-five involved a firearm. In 2007, 847 women nationwide were murdered with a gun, two-thirds of which were committed by an intimate partner. * It is clear that an intimate partner's access to firearms is a significant risk factor in Domestic Violence fatalities. Enforcement of federal and state statutes prohibiting Domestic Violence offenders from possessing firearms is essential to reducing the risk of Domestic Violence deaths.

Firearms aren't only dangerous for victims; they pose a serious threat to police officers as well. According to FBI statistics, more than 224,900 assaults on officers occurred at Domestic Violence calls between 1980 and 2005. More than 780 of these assaults involved firearms and 157 officers lost their lives. ** Nationally, fourteen-percent of all police officer deaths occurred during a response to Domestic Violence calls.

The Law

There are three fundamental federal laws to limit Domestic Violence offenders' ability to possess and purchase firearms;

- 1) 18 USC § 922 (g)(8) makes the possession of firearms or ammunition, while subject to a qualifying Restraining Order, a crime;
- 2) 18 USC § 922 (g)(9) criminalizes possession of firearms by persons convicted of misdemeanor crimes of Domestic Violence, and;
- 3) 18 USC § 921 regulates firearms purchases through a screening program, also known as a background check.

In Oregon, judges have the authority to prohibit firearms as part of a Restraining Order. Under ORS 107.718 (2)(h), a judge may prohibit the use or possession of firearms as a form of "other relief" under the order, if it is necessary to provide for the safety and welfare of the petitioner and the children in custody of the petitioner.

The Problem

A number of systemic issues make it difficult to keep guns out of the hands of Domestic Violence perpetrators in Oregon and nationwide. Some of these

impediments include:

- Misdemeanor crimes of Domestic Violence and qualified protective orders that are the basis for federal and/or state firearms bans are not consistently identified and certified as such by the courts and prosecutors. Consequently, this information is not entered into information sharing systems used by law enforcement or judicial data bases;
- State law enforcement officers and prosecutors are sometimes uncertain as to their role in ensuring the prosecution of federal firearms crimes when they encounter perpetrators who are violating federal law.
- Law enforcement storage limitations and inability to properly maintain seized firearms.
- Gaps in Oregon laws do not mirror federal firearms laws, making them less effective in removing firearms from Domestic Violence perpetrators.

Firearms and Domestic Violence Task Force:

Looking for a Solution

In early 2008, representatives from several Oregon law and community based organizations formed a statewide, multi-disciplinary Firearms and Domestic Violence Task Force, chaired by Clatsop Circuit Court Judge Paula Brownhill. This Task Force is now funded by a STOP Violence Against Women Act Grant.

The mission of the Task Force is to enhance the safety of Domestic Violence victims by:

- Increasing awareness of firearm prohibitions in Domestic Violence cases;
- Developing statewide protocols for the surrender, storage, and return of firearms in protective order proceedings and other DV cases;
- Recommending best practices regarding entry of firearm prohibitions in law enforcement data systems; and

Enhancing prosecution of federal gun crimes.

In October 2008, the Task Force hired project coordinator, Jamie Badeau. As the

project's coordinator, Jamie has traveled to all 36 Oregon counties and has met with representatives from local sheriff's offices, judges, court staff, district attorneys, district attorney's representatives, and other community partners who work to protect victims and the community.

The Task Force used information compiled from these meetings and developed the following tools to address some of the most urgent concerns:

- Statewide training on, "Law Enforcement Strategies to Enhance Community and Victim Safety" was provided to law enforcement, court representatives, prosecutors, and victims services.
- Development of a firearm dispossession protocol and a no contact pre-trial release protocol that can be used by interested counties to enhance victim and officer safety.
- Creation of a Domestic Violence & Guns brochure that offers steps victims can take to enhance their safety if they are afraid their partner will use a firearm against them.
- Development of a training DVD to help Domestic Violence victims understand how to petition for protective orders in Oregon courts.

The Task Force is continuing to develop tools and programs with an eye towards it stated goals. ***

Below, you will find hyperlinks to brochures from the ATF (Bureau of Alcohol, Tobacco, and Firearms) that outline Federal Firearms prohibition criteria for Protective Orders and Misdemeanor Crimes of Domestic Violence.

<http://www.atf.gov/publications/download/i/atf-i-3310-2.pdf>

<http://www.atf.gov/publications/download/i/atf-i-3310-3.pdf>

*Violence Policy Center, *When Men Murder Women: An Analysis of 2007 Homicide Data*, <http://www.vpc.org/studies/wmmw2009.pdf>

**Dr. Richard R. Johnson, PhD, Asst. Professor, Criminal Justice Department, Washburn University, Topeka, Kansas

***For more information on the task force, contact Jamie Badeau at Jamie.badeau@state.or.us

Be in the "NO": Knowing the No-Contact Statutes in the Criminal Code

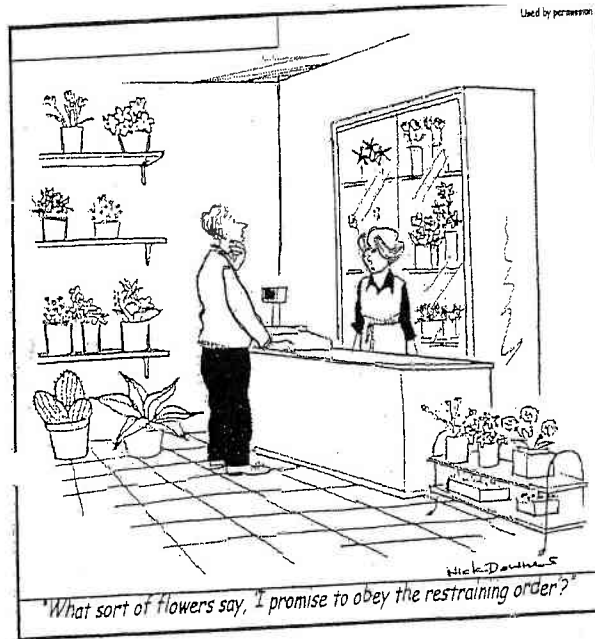
How familiar are you with the no-contact provisions in the release statutes? Are you using them effectively?

The Statute: ORS 135.250: General Conditions of Release Agreement

(2)(a): "If a defendant is charged with an offense that also constitutes domestic violence, the court SHALL include a condition of the release agreement that the defendant not contact the victim of the violence."

(2)(b): (The court may waive the no-contact condition IF):

- (A) The victim PETITIONS the court; and
- (B) The court finds AFTER A HEARING...that waiving the condition is the best interest of the parties AND the community.
- (C) If the defendant was provided notice and an opportunity to be heard, the court SHALL also include in the terms of the agreement, when appropriate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) and (g)(8) to affect the defendant's ability to possess firearms and ammunition or engage in activities involving firearms.



Just another example of how a defendant may break a different type of no-contact order.

The Statute: ORS 135.260: Conditional Release

(2): Except as otherwise provided in ORS 135.250 (2)(b), conditional release SHALL include a prohibition against contacting the victim if the defendant is charged with an offense that also constitutes domestic violence.

The Statute: ORS 135.970: (Under the Miscellaneous section)

(4)(a): Any pretrial release order MUST prohibit any contact with the victim, either directly or indirectly, UNLESS specifically authorized by the court having jurisdiction over the criminal charge.

(4)(b): If a victim notifies the district attorney that the defendant, either directly or indirectly threatened or intimidated the victim, the district attorney SHALL notify the court with jurisdiction over the criminal matter and the defense attorney. If the defendant is NOT in custody and the court finds there is probable cause to believe the victim has been threatened or intimidated by the defendant, either directly or indirectly, the court SHALL immediately issue an order to show cause why defendant's release status should not be revoked. (If the court conducts a hearing and finds that the victim has been threatened or intimidated, then the court SHALL revoke defendant's status).

Code Alert: Courts may unintentionally violate these statutes by allowing non-offensive contact or even contact, in general, without a hearing. Be aware and be diligent about doing your part to enforce the law.

THEY SAID WHAT??

They Said What? They Did What? Seriously?

The following are taken from (separate) local police reports:

Gentlemen: Start Your Engines:

"I asked Mr. X why he and Mr. Y got in a fight and he told me they were having an argument when the fight started. I asked Mr. X what the argument was about and he told me it was about NASCAR or Bon Jovi, but he wasn't certain."

Someone Missed The Point:

"Anthony told me he locked Christina in the garage because he had two years of anger management and knew he needed to separate himself so he locked the door to get some space."

Description by a DDA of a case she received in her intake recently:

"Sister on sister domestic where the suspect hurls a container of their dead brother's ashes at the victim." Seriously?

SEEN, HEARD, NOTED, AND QUOTED:

There is no job more interesting than the one that we do. And as they say, truth is stranger than fiction. So, if you have a funny anecdote you'd like to share, send it my way!



HELP ME HELP YOU!

The Domestic Violence Resource Prosecutor position can more effectively assist you and your law enforcement agencies if I know what the specific needs are for your office, county, and community.

Over the last couple of months I've had the opportunity to speak to many local prosecutors and even meet some of you in person. These contacts have allowed me to better understand how the DVRP position can help DDA's and law enforcement. Keep the suggestions coming!

Also, remember to SIGN up for the listserv. I am including the website link here: **http://listsmart.osl.state.or.us/mailman/listinfo/dv_listserv**

Working together can only help us work better.

Domestic Violence Newsletter

610 Hawthorne Ave NE, Suite 210
Salem, OR 97301

Phone: 503-378-6347
Fax: 503-373-1936
E-mail: erin.greenawald@doj.state.or.us

**DV info will soon be available on
the OSIN website! Details to follow!**

CONTINUUM OF DOMESTIC VIOLENCE

Without help, the violence usually gets worse. The end result can be death.

Push

Punch

Slap

Kick

Strangle

Use of Weapons

Sexual Assault

Aggravated Assault

Death



NATIONAL CENTER
on Domestic and Sexual Violence
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1612 Shoal Creek Blvd. • Austin, Texas 78756
tel: 512.407.9020 • fax: 512.407.9020 • www.ncdsv.org