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Spotlight: The Governor's New Domestic Violence Prevention and Response Task Force

In late June, Governor Kitzhaber signed an Executive Order creating the Oregon Domestic Violence Prevention and Response Task Force. The press release announcing this exciting news stated:

“Governor Kitzhaber has signed an Executive Order establishing a new Oregon Domestic Violence Prevention and Response Task Force. The group will be formed over the next two months and begin meeting in September.

“Despite efforts around the state devoted to preventing domestic violence and supporting victims of abuse, Oregon continues to see an increase in domestic violence, putting too many people at risk,” said Governor Kitzhaber. “The effect on individuals and children is a tragedy, while the overall

impact on communities is profound and unacceptable.”

The effects of domestic violence include personal injury, homelessness, lost work time and productivity, alcohol and other drug abuse, increased health care costs, adverse impacts on children, and denial of victims' basic human rights.

The new Task Force is designed to bring together stakeholders to identify issues and priorities and to create a long-term strategic plan to eradicate domestic violence in Oregon. The 19-member group will make recommendations to the Governor and to the Oregon Legislature on service gaps and opportunities to improve system efficiency, prevention strategies, and performance and monitoring measures.

Members will represent various civic groups across the state, including nonprofit organizations, the Oregon State House and Senate, and state agencies like the Oregon Health Authority and Department of Human Services. Both the chair and vice-chair will be appointed by the Governor later this summer.”

- ◆ For more information, visit http://governor.oregon.gov/gov/docs/executive_orders/eo_12-10.pdf
- ◆ If you are interested in being appointed to the Task Force, please see the attached “Interest Form”: <http://cms.oregon.egov.com/gov/pdf/form/interestformdown.pdf>

“The most important thing in the Olympic Games is not winning, but taking part; the essential thing in life is not conquering but fighting well.”

~Pierre de Coubertin, founder of modern Olympic Games

Of Note:

A column featuring DV cases tried by local prosecutors so we can learn from each others' accomplishments, strategies, and trial challenges.

Putting the Law and Listserv to Good Use

Article by Sheryl Blackman, Chief Deputy District Attorney of Jefferson County

Recently, I tried a Domestic Violence case with multiple charges including "Unlawful Use of a Weapon." In my case, the defendant brandished a knife and threatened to kill himself and the victim. At the eleventh hour, the defense filed a motion requesting a jury instruction arguing that "use," in the context of a UUW charge, does not mean "threaten to use." The defense argued that displaying a knife is expressing only an intent, and does not qualify for putting the knife into action. Defendant asserted that the legislature's distinction between "use" and "threatened use" in robbery statutes and in the firearm minimum statute supported this instruction.

Given the short notice I had to respond to the Defense's motion, I sent a request out over the **DV prosecutor listserv** asking for assistance. I received immediate responses which helped me successfully argue against the defendant's requested instruction.

Of course, defendant was allowed to make the argument to the jury (without the support of the jury instruction he requested), and did. In most cases it is not an ideal jury argument, but my facts had the additional wrinkle of a tough-cookie victim who was entirely unimpressed with defendant's threats and testified that she wasn't scared. I dealt with the factual issue by establishing, then arguing the following:

- ◆ Another (very sympathetic) person who was present was terrified;

- ◆ Victim's rough and tumble background makes her harder to scare than most people, but defendant still had the intent to scare her. His behavior is no less criminal because she's seen violence her whole life;
- ◆ While the victim did not want to admit she was scared, her behavior did indicate concern on her part. For instance, she refused to leave the house with him, where there were witnesses;
- ◆ Weapons are different when it comes to "use." Defense had used a pen as an example during jury selection and opening, so I argued: Nobody "brandishes" a pen or "pulls a pen" on somebody. Opening one's jacket to reveal a pen is not going to scare anyone.

Jurors are normally hard to read but this group looked bewildered by defendant's argument that threatening to use a knife isn't enough to constitute a crime. Ultimately, the jury convicted the Defendant (in a 30-minute verdict!) and he was sentenced to 30 months in the Department of Corrections. Importantly, the victim in the case was gratified by the outcome, too.

Based on the response I received on the **DV Prosecutor listserv**, the "use" vs. "threaten to use" argument is not completely uncommon, and can easily be fought off with the collective case law ammunition.

As part of my thanks to the group as a whole, I wanted to provide a summary

of the case law generously supplied to me and arguments that worked with my judge:

State v. Osborne, 242 Or App 85 (2011): Rejects the argument that "use" requires more than a threat of use, and that merely holding a knife, even if defendant apologizes for the crime while holding the knife, could constitute "use."

State v. Anlauf, 164 Or App 672 (2000): Partial display of knife and threat to use it was not enough to support a conviction of a codefendant because there was not enough evidence to support that the codefendant was an accomplice in the weapon use. Still, a useful case because the implication is that the action is enough to constitute "use" for Anlauf's codefendant.

State v. Linthwaite, 295 Or 162 (1983): This is a just a passing reference that the UUW statute can be violated by "merely carrying a dangerous weapon with intent to use it but not in fact using or attempting to use it." A passing reference illustrates just how well-settled this issue is.

State v. Essig, 31 Or App 639 (1977): Intent to use a weapon is shown by carrying a holstered firearm coupled with a threat to "meet force with force" and "firearms with firearms."

I also cited *State v. Poole*, 175 Or App 258 (2001) and its ilk as authority that special instructions should be given rarely and cautiously, that not every correct statement of the law is appropriate for a special instruction. The judge agreed.

Firearms and Domestic Violence:

A Lethal Combination

In Oregon, between 2003-2010, there were 207 deaths related to Intimate Partner Violence.¹ Of those 207 IPV-related deaths, 61% were due to gunshot wounds.² Nationally, for homicides in which the weapon could be identified, 52% of female victims were killed with guns.³ However, of all females killed with firearms, nearly two-thirds were murdered by male intimates.⁴ In the context of intimate partner homicides it is clear that firearms, specifically handguns, are the weapon of choice.

Also clear is the fact that the act of separating—“whether through divorce, by physical or legal separation, or by ending a dating relationship—often triggers an escalation of violence.”⁵ In a desperate attempt to maintain power and control, a Domestic Violence offender may go to extreme, indeed lethal, lengths.⁶

Consider these other statistics:

- ♦ Family and intimate partner assaults involving firearms are 12 times more likely to result in death than intimate partner assaults that do not involve firearms.⁷
- ♦ Access to firearms increases the risk of intimate partner homicide nearly five times more than instances where there are no weapons.⁸
- ♦ Abusers who possess guns tend to inflict the most severe abuse on their partners.⁹

The heightened potential for lethality in the combination of these factors (separation and firearm access) make it critically important for the criminal justice system to act when possible and take guns out of the hands of Domestic Violence offenders and those persons who are subject to a qualifying protective order (Restraining Order, Stalking Order, or even a “No Contact” Order).

Fortunately, there are existing tools available for criminal justice professionals to use to dispossess offenders of guns, or even assist in their federal prosecution:

- ♦ Federal Law: Gun Act (18 USC 922 (g)(8)): Makes it a federal crime for a person is subject to a “qualifying protection order” to possess a firearm or ammunition.
- ♦ Federal Law: Lautenberg Amendment (18 USC 922 (g)(9)): Makes it a federal crime for persons convicted of a “qualifying misdemeanor crime” to possess (purchase, receive, etc.) a firearm or ammunition.
- ♦ State Law(s) where the court has the discretion to restrict firearm possession: FAPA (Restraining Order), Stalking Citation, Stalking Order, Release Agreements, Standard Condition of Probation.
- ♦ Model Firearm Surrender Protocols: Developed by the Oregon Firearm and Domestic Violence Task Force to identify FAPA and criminal cases where

dispossession is appropriate and provides a process and supporting documents to execute dispossession.

If you are interested in more information on any of the items listed above, please contact: Erin Greenawald, Department of Justice at: erin.greenawald@doj.state.or.us

¹ Homicide in Oregon Related To Intimate Partner Violence, Oregon Public Health Division 2012; Oregon Injury Prevention and Epidemiology Fact Sheet.

² Id. Comparatively, firearms were the mechanism of deaths in 50% of all violent deaths. “Violent Deaths in Oregon: 2010. Oregon Health Authority, Public Health Division.

³ www.vpc.org

⁴ Id.

⁵ Carbon, Susan B., Mitchell, Darren. “Firearms and Domestic Violence: A Primer For Judges.” Court Review, Summer 2002.

⁶ In a study of domestic homicides in Florida, 65% of intimate homicide victims had physically separated from the perpetrator prior to their death. See Florida Governor’s Task Force on Domestic and Sexual Violence, Florida Mortality Review Project, at 44, table 7. (1997).

⁷ Pennsylvania Coalition Against Domestic Violence Fact Sheet.

⁸ Campbell, Jacquelyn C. 2003. “Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study.” American Journal of Public Health.

⁹ Id.

Cases to Watch

♦ Eric Keith Rodriguez (Multnomah Co.)

Defendant is charged with murder constituting domestic violence for stabbing his 23 year old girlfriend to death. Trial is scheduled for September 10, 2012.

http://www.oregonlive.com/portland/index.ssf/2012/07/cully_stabbing_suspect_arreste.html



Eric Keith Rodriguez

♦ Brett Wayne Chanler (Jackson Co.)

Defendant arrested after locking his girlfriend in a room and beating her over a weekend. Defendant charged with Coercion, Felony Assault 4, Assault 4 constituting domestic violence, Strangulation, Harassment, and Recklessly Endangering Another. Trial is scheduled for August 29, 2012.

<http://www.mailtribune.com/apps/pbcs.dll/article?AID=/20120704/NEWS/207040322&cid=sitesearch>



Paul Joseph Sanelle

♦ Paul Joseph Sanelle (Washington Co.)

Defendant charged with the murder of his 26 year old girlfriend. Investigators say defendant assaulted her over time and she died of her injuries. Trial is scheduled for May 7, 2013.

http://www.oregonlive.com/north-of-26/index.ssf/2012/05/bethany_man_indicted_on_murder.html

♦ Daniel James Seale (Clackamas Co.)

Defendant, a convicted sex offender, confessed to murdering a woman who lived in the apartment building where he sometimes performed odd jobs. Trial is scheduled for September 21, 2012.

http://www.oregonlive.com/milwaukie/index.ssf/2012/07/apartment_handyman_confessed_t.html

Oregon Domestic Violence Fatalities

Since the beginning of June, there have been 11 Domestic Violence-related deaths in Oregon. Eight of these deaths resulted from gunshot wounds. There have been 33 DV-related deaths in Oregon since the beginning of the year.

June

- ♦ Washington County: Officers respond to what has been described as a "domestic disturbance". A man with a gun is shot and killed by police.
- ♦ Clackamas County: Man shoots and kills his mother and nephew.
- ♦ Washington County: Officers respond to domestic disturbance

and find victim's body on the lawn. Suspect shows up a few minutes later with two knives. Police had earlier spoken to the victim about suspicion of suspect's involvement in a hit-and-run.

July

- ♦ Yamhill County: Acting on concern over a Facebook post, a friend of the victim's calls the police. Police respond to the family home and find the three victims: an adult female and two children. They had been shot in the head. Police also find the body of an adult male. The husband and wife had recently separated.
- ♦ Multnomah County: Man shoots and kills another man. Victim was

perpetrator's sister's boyfriend and/or father of her children (i.e., victim and shooter's sister had been in a relationship). Police categorized the incident as "domestic."

- ♦ Lake County: Husband strangles wife with shoelace. Police find body wrapped in a tarp in husband's utility truck.
- ♦ Multnomah County: Woman dies from multiple stab wounds. Suspect also suffered from multiple stab wounds. Police label death a DV homicide.

If there has been a Domestic Violence-related death in your community that does not appear on this list, please let me know!

Upcoming Trainings

The Family Violence Coordinating Council (FVCC) sponsors monthly training on the 3rd Tuesday of each month from 10am to 12noon at Southeast Health Center, basement conference room, 3653 SE 34th Ave - just south of Powell Blvd., Portland 97202. Upcoming training dates are **September 18** | **October 16** | **November 20**.

August 10 (9 a.m.- 4:30 p.m.) | Advocate Institute: "Financial *Fundamentals*: Tools for Economic Advocacy" by Family Violence Coordinating Council | objective: domestic violence advocates to gain skills/resources for self-sufficiency of participants escaping domestic violence | [Portland State Office Building](#), 800 N.E. Oregon, Portland 97232 | priority: DV advocates working in survivor services, others on waitlist | must pre-register - no charge: Megan C. Kovacs, Education Coordination, Raphael House 503-222-6507 x317 or MKovacs@raphaelhouse.com

August 23 (10:00 a.m.) | Webinar: "Battered Mothers and Parental Kidnapping - What Every Advocate Should Know" by [National Council of Juvenile and Family Court Judges](#) presented by staff attorneys for [National Clearinghouse for the Defense of Battered Women](#) | Jenny Talancon at 775-784-1662 or fvdinfo@ncjfcj.org for registration

August 28-29, 2012 | National Conference on Prosecuting Stalking Cases | St. Louis, Missouri | AEquitas is partnering with the [Stalking Resource Center](#) and the [Battered Women's Justice Project](#) to host a national conference that will include topical and skill building sessions designed to enhance the ability of participants to prosecute intimate partner stalking cases | Register now at <https://www.signup4.net/Public/ap.aspx?EID=NATI421E>

September 6-7 | 4th Annual Domestic Violence Symposium: Intersections, Insights & Interventions | Thursday, September 06, 2012 8:00 AM- Friday, September 07, 2012 4:30 PM | Seattle University - Campion Tower Ballroom, 914 E. Jefferson St., Seattle, WA 98122 | Tuition: \$65.00 General/\$85.00 Attorneys & Judicial Officers/\$10.00 Non-SU Law Students | Register now at <http://www.regonline.com/builder/site/Default.aspx?EventID=1061898>

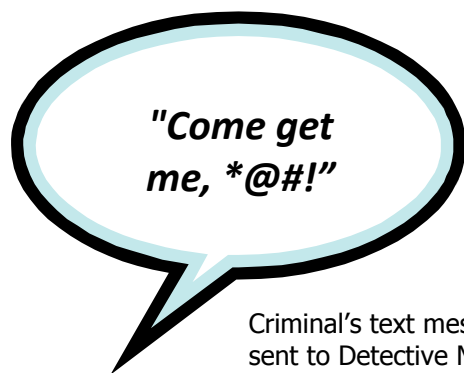
September 10-12 | Annual Conference: "Beloved Community," sponsored by the [Washington State Coalition Against Domestic Violence](#), Yakima Convention Center: [Workshop previews](#) | Contact Leigh Hofheimer at leigh@wscadv.org or 206-389-2515 x202 | Scholarships are prioritized for Native people, immigrants and refugees, and people of color affiliated with Member Programs.

September 20 (10:00 a.m.) | Webinar of [National Council of Juvenile and Family Court Judges](#): "Advocacy Post-Decree" by Margaret Drew, J.D., Clinical Professor of Law | Jenny Talancon at 775-784-1662 or fvdinfo@ncjfcj.org for registration



"You seem to know something about law. I like that in an attorney."

Oregon Department of Justice
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



Criminal's text message
sent to Detective McIntyre

They Did What?!?

Wanted criminal texts police officer his address

EDMONDS, WA- After receiving some strange text messages from an unknown number, Detective McIntyre of Edmonds Washington decided to investigate. When McIntyre typed the phone number into a police computer system, he discovered the phone number belonged to a well-known criminal, Jason Wrenchy, who had two outstanding felony warrants.

"I wondered how he got my number," McIntyre said. "I've never texted him and I don't think I've ever called him."

Detective McIntyre decided to try to use the information and texted Wrenchy asking him to meet up. Apparently Wrenchy had no idea he was texting a police officer, so he gave McIntyre his address. Police soon showed up and arrested a very surprised Wrenchy, who had no clue how the officers tracked him down.

Upcoming Events Supporting Local DV Agencies

♦ Summer Lovin'

August 9 (5:30-9 p.m.) | Benefit: [Party with a Purpose](#): "Summer Lovin'" by Portland Women's Crisis Line at Q Center, 4115 N Mississippi Avenue, Portland 97217; raffle prize and conversation led by SheBop, silent auction; wine and nosh | Tickets \$10 [buy online](#) or call 503-235-5333.

♦ Golf for Hope Tournament

September 13 | Benefit: 13th Annual Golf for Hope Tournament sponsored by [Raphael House](#) | [click here for registration and sponsorship](#).

♦ Community Healing Vigil

October 4 (6-8 p.m.) | Event: [4th Annual community Healing Vigil](#) to Honor [Domestic Violence Awareness Month](#) by Portland Women's Crisis Line, location to be determined | contact Rebecca rebecca@pwcl.org or 503-872-8627

♦ Super!Drag!

October 5 | Event: Super!Drag! an event by the [Bradley Angle House](#) to commemorate Domestic Violence Awareness Month and the heroism of survivors. Details coming soon.

♦ Trivia Night

October 10 (5:30 - 8 p.m.) | Benefit: [Party with a Purpose](#) for Portland Women's Crisis Line, MacTarnahan's Taproom, 2730 NW 31st, Portland 97210 | Tickets \$30 (on sale September 3rd includes beer and Taproom entrée). Call 503-235-5333.

♦ Silent Auction and Anniversary Dessert

December 4 (6 p.m.) | [Mid-Valley Women's Crisis Center](#) | Each year we celebrate our program's origin with a Silent Auction and Anniversary Dessert | The Auction is held at the historic Mission Mill on the first Tuesday in December at 6p.m. | If you are interested in **contributing items** or attending this event, please call the office at (503) 378-1572 or email Auction@mvwcs.com

"Find the good. It's all around you. Find it, showcase it and you'll start believing in it."

~Jesse Owens, 1936 Olympian and winner of four gold medals