OREGON DOJ DOMESTIC VIOLENCE PROSECUTOR NEWSLETTER

"...The Good Fight"

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Black Friday. Cyber Monday. Giving Tuesday!

Question: What is #GivingTuesday™?

Answer: #GivingTuesday™ (#GT) is a movement to create a national day of giving to kick off the giving season added to the calendar on the Tuesday following Thanksgiving, Black Friday and Cyber Monday. The second annual GivingTuesday is on **December 3, 2013.** In the same way that retail stores take part in Black Friday, we want the giving community to come together for #GivingTuesday. We ask that partners create and commit to a project for/on #GivingTuesday and then help spread the word to their networks.

Question: What is #GivingTuesday's mission?

Answer: #GivingTuesday™ is a campaign to create a national day of giving at the start of the annual holiday season. It celebrates and encourages charitable activities that support non-profit organizations.

Question: How did #GivingTuesday start?

Answer: New York's 92nd Street Y was the catalyst and incubator for #GivingTuesday, bringing the expertise of 139 years of community-management to the project and providing #GivingTuesday a home. The United Nations Foundation joined as partners, bringing their strategic and communications clout to the project. An amazing team of influencers then offered their ideas, contacts and wisdom to help shape and improve the concept. A powerful list of corporations and non-profits agreed to be founding partners, helping spread the word and committing to their own #GivingTuesday initiatives. Since then, countless organizations, friends and leaders have all added their support and talents to make #GivingTuesday a reality.

Question: Did #GivingTuesday make a difference last year?

Answer: In 2012, we had more than **2,500** recognized #GivingTuesday™ partners from all **50 states** of the United States. Blackbaud processed over **$10 million** in online donations on 11/27/12 – a **53% increase** when compared to the Tuesday after Thanksgiving the previous year. DonorPerfect recorded a **46% increase** in online donations and the average gift **increased 25%.** More than **50 million** people worldwide spread the word about GivingTuesday – resulting in milestone trending on Twitter. **Not too shabby, right?** (From the Giving Tuesday website.)

There are a number of Oregon non-profit 'partners'. Check out the website for a complete list!

GivingTuesday.org

KEEPING VICTIMS INFORMED:

VINE'S NEW TEXT OPTION

Oregon's **VINE** (Victim Information and Notification Everyday) program now includes text notifications - in addition to email and phone - for crime victims who register to be notified about any change in the custody status of an offender. To register for notifications or to check on the custody status of an offender, victims can call toll-free at 877-674-8463 or go to www.vinelink.com.

Oregon launched the statewide VINE service in 2001, becoming the 11th state to adopt the program. Oregon VINE, available in both English and Spanish, monitors offenders who are currently on community supervision. The program has sent more than 10 million notifications since its implementation.

Oregon Department of Corrections Director Collette S. Peters says, "We are extremely pleased to add text notifications to VINE. It enhances the service and helps bring more peace of mind to those who are victims of crime."

(News Release from the Oregon Department of Corrections)

One L♡ve Danger Assessment App

The One Love Foundation and Dr. Jacquelyn Campbell from the Johns Hopkins School of Nursing worked together to create the Danger Assessment mobile app, which includes twenty years of research behind the instrument. The One Love DA app is a part of the One Love Foundation's "Be 1 for Change" initiative that serves as the basis of a long-term campaign to combat Relationship Violence (RV) in the United States. "Be 1 for Change" serves as a signature program for the One Love Foundation, with an immediate goal of educating, creating awareness and providing resources for people 16–24-years-old. The app, available for smart phones, is free to download and is anonymous.

http://www.joinonelove.org/main.asp?page=78

Crime Victims' Needs Assessment

On behalf of the Crime Victims' Services Division of the Oregon Department of Justice, the Portland State University Regional Research Institute for Human Services conducted an eighteen-month needs assessment of the current state of crime victim services and crime victims' needs in Oregon. This 2012 study was a ten-year follow-up of the 2002 statewide crime victims' needs assessment. See the link below for the full report and findings.

https://www.rri.pdx.edu/files/138/FINAL%202012%20CVNA%20REPORT.pdf

Protective Order Electronic Notification Project

One of the most dangerous times for a victim is when service of a protection order occurs. Timely notice to the victims is essential so they can plan for their safety. The Protective Order Electronic Notification Project provides notification regarding service and expiration of protection orders in Family Abuse Protection Orders (FAPAs), Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) and civil Stalking cases by cell phone text message or email. This electronic notice is an enhancement to the existing process and is not meant to take the place of the requirement to send the victim a true copy of proof of service.

28 counties have implemented the Protective Order Electronic Notification Project. These counties have electronically notified over **14,000** victims of service of a protection order since the program began!

JURISDICTION	TOTAL NOTIFICATIONS
BENTON COUNTY	153
CLACKAMAS COUNTY	1431
CLATSOP COUNTY	260
COLUMBIA COUNTY	118
COOS COUNTY	189
CURRY COUNTY	36
DESCHUTES COUNTY	893
DOUGLAS COUNTY	1,373
HARNEY COUNTY	18
HOOD RIVER COUNTY	1
JACKSON COUNTY	947
JOSEPHINE COUNTY	443
LAKE COUNTY	7
LANE COUNTY	2,368
LINCOLN COUNTY	306
LINN COUNTY	592
MALHEUR COUNTY	110
MARION COUNTY	1,605
MULTNOMAH	776
POLK COUNTY	214
TILLAMOOK COUNTY	81
UNION COUNTY	20
WALLOWA COUNTY	12
WASCO COUNTY	105
WASHINGTON COUNTY	1,740
YAMHILL COUNTY	371

For a fact sheet on this project, click on the link: http://courts.oregon.gov/OJD/docs/osca/cpsd/courtimprovement/familylaw/forms/protectionordersnotificationfactsheet11.2010.pdf

NATIONAL STALKING AWARENESS MONTH

JANUARY 2014

StalkingAwarenessMonth.org

Stalking Resource Center

In 2004, the Stalking Resource Center (SRC), National Center for Victims of Crime, and the Office of Violence Against Women launched National Stalking Awareness Month. This year marks the 10th anniversary of NSAM!

OREGON STALKING UPDATE

State v. Jackson *(10/2013):* Defendant appealed a conviction for Stalking. Defendant and victim are neighbors. Defendant engaged in several "unwanted" contacts with the victim, culminating in a verbal altercation where the Defendant called the victim several derogatory names in an attempt to engage him in a physical fight. Prior to any physical contact, victim's wife diffused the situation and the police were called. The Defendant was charged and convicted of Stalking. However, on appeal the Court of Appeals reversed, citing the line of *Rangel* cases which require that contacts which are communicative in nature must involve a "threat." A threat, the court stated, "is a communication that instills in the addressee a fear of imminent and serious personal violence from the speaker, is unequivocal, and is objectively likely to be followed by unlawful acts." A threat does not include 'the kind of hyperbole, rhetorical excesses, and impotent expressions of anger or frustration that in some contexts can be privileged even if they alarm the addressee.'
State v. Moyle, 299 Or 691, 705, 705 P2d 740 (1985).

Stalking and Intimate Partner Homicide

76% of intimate partner femicide victims have been stalked by their intimate partner.

67% had been physically abused by their intimate partner.

89% of femicide victims who had been physically assaulted had also been stalked in the 12 months before their murder.

79% of abused femicide victims reported being stalked during the same period that they were abused.

54% of femicide victims reported stalking to police before they were killed by their stalkers.[

Judith McFarlane et al., ""Stalking and Intimate Partner Femicide," *Homicide Studies* 3, no. 4 (1999).]

IS THIS A KIDNAPPING?

State v. Opitz, 256 Or App 521 (2013): Defendant repeatedly assaulted his girlfriend over several hours in her one-bedroom apartment, moving her around different rooms and beating her in each of them. At one point, the victim wanted to obtain medical help, but the Defendant forced her to stay. Victim's daughter called in a welfare check and the victim was rescued. Defendant was convicted at trial of Kidnapping.

The Court of Appeals reversed the conviction. The Court said that the "functional differences among the rooms in the victim's apartment had no effect on the extent to which the Defendant interfered with the victim's personal liberty."

Also, the Court found that the State did not prove that the movement was not incidental to assaults. See *State v. Mejia*, 348 Or Or 1, 7-8, 227 P3d 1139 (2010).

The Court further explained: "The State adduced no evidence that, in moving the victim between rooms of her apartment, defendant intended or accomplished transporting the victim to a place where he could exert greater control over the victim or increase her isolation."

Answer: NOPE. Not a Kidnapping.

HOW 'BOUT THIS ONE?

State v. Gerlach, 255 Or App 614 (2013): The Defendant drove into and knocked a 10-yr old girl off her bike, forced her into his car, drove her to remote location, and sexually assaulted her. He then got back in his car, drove off with the victim and headed off toward a mountainous area. Fortunately, police caught up with him and the victim was rescued. Prosecutors charged two counts of Kidnapping. However, by virtue of its elements, Kidnapping is a "continuing" crime. It continues for as long as the seizure continues. A single deprivation of the victim's liberty is a single violation of the Kidnapping statute. The Court found that the two counts should have merged.

Answer: Yes. It is a Kidnapping, but only one count.

THIS HAS TO BE A KIDNAPPING! RIGHT?

State v. Kinslow, 257 Or App 295 (2013): Victim was at Defendant's doing drugs with her. Defendant calls another person to come over and assault the victim. Other person does assault the victim for about a day and a half, refusing to let him leave. The Defendant moved the victim from room to room.

At one point, the victim woke up and both the Defendant and other person were gone, so he left. Defendant was charged and found guilty of Kidnapping (as an accomplice). However, the Court of Appeals reversed. The Court found that the evidence failed to show that the victim was moved from "one place to another."

The Court found that there were no qualitative differences between the rooms that increased Defendant's or other person's control over the victim or further isolated him. NOTE: The Defendant was not charged w/ kidnapping under the "secretly confines" alternative in ORS 163.225(1)(b).

Answer: Nope. Not a Kidnapping.

Oregon Department of Justice

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There is no job more interesting than the one we do. And, as they say, truth is stranger than fiction. So, if you have a funny or disturbing anecdote, please send it my way!

Good One, Your Honor!

Defense Attorney: Judge, I don't know why my client isn't here. I'm kinda surprised, actually. He's made all his appointments and kept in good contact . . . .

Judge: Well, he's not here now.

Defense Attorney: I know, but . . . well, I'd just hate to see him get a warrant for his arrest.

Judge: You're gonna want to close your eyes while I do this, then.

(An actual and recent exchange in one of our local courtrooms…)

LOCAL DOMESTIC VIOLENCE CASES

State v. Sanelle

After an eight-day trial, it took Washington County jurors less than an hour to find Paul Sanelle guilty of killing his girlfriend, Julianne Herinckx. Washington County Deputy District Attorney Gina Skinner prosecuted the case. On November 15th, Sanelle was sentenced to life in prison. He will technically be eligible for parole after serving 25 years. At sentencing, Ms. Skinner told the court that Herinckx's death had a significant impact on many lives.

"Her loss has been deeply, deeply felt," Skinner said. "This was an extremely difficult situation in that this was an ongoing violent relationship. The defendant, in essence, tortured the victim to death over a long period of time."

State v. Zielinski

November 18th was scheduled to be the first day of trial for Peter Zielinski. Instead, Zielinski pleaded guilty to murdering his wife, Lisa. At sentencing, Judge Dale Penn imposed the mandatory minimum sentence of life in prison with a possibility of parole after 25 years. Judge Penn told the Defendant: "The crime itself is a devastating and terrible event. Probably the most egregious act is the violation of trust and lifelong harm you have imposed on an innocent 8-year-old. She will not have her mother. Because of that violation of trust, I would have imposed a more severe sentence if the law would have allowed me to." Deputy District Attorneys Doug Hanson and Jennifer Gardiner prosecuted the case for the Marion County District Attorney's Office. Mr. Hanson told the court, "[a]t the end of this, justice is being served," he said. "We just want to make sure Lisa is not forgotten. She was an incredible person. This smiling picture — this is who she was."