

Finally: Tribal Jurisdiction Extended

END VIOLENCE AGAINST WOMEN
INTERNATIONAL WOMEN'S DAY 8 MARCH



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Domestic and sexual violence has recently (and yet again) come to the forefront of public discussion as highly publicized incidents of domestic violence have surfaced surrounding celebrities like former Baltimore Ravens running back Ray Rice. Of course, the problem isn't confined to the lives of the rich and famous. It is a long standing and pervasive crisis that affects the lives of a staggering percentage of our community. **Domestic and sexual violence is especially pervasive among Native American populations.**

STATISTICS

According to a United States Department Of Justice report nearly half of all Native American women— 46 percent— have experienced rape, physical violence, or stalking by an intimate partner; one in three Indian women will, at some point in her life, experience the violence and trauma of rape; and on some reservations Native American women are murdered at a rate more than

10 times the national average. Another source reports that 86 percent of rapes and sexual assaults against Native American women are committed by non-Native American men.

HISTORY

Congress enacted the Violence Against Women Act ("VAWA") over twenty years ago, recognizing the need for action to address the epidemic that kills an average of three women every day. With its reauthorization of VAWA ("VAWA 2013") the US Government has renewed that commitment to take action against this epidemic. As a part of VAWA 2013, Congress rolled out a pilot program that is aimed to better protect Native American women. Prior to 2013, tribes, for over thirty years, have been prohibited from exercising criminal jurisdiction over non-Indian defendants. Even a violent crime committed by a non-Indian husband against his Indian wife, in the presence of her Indian children, in their home on the Indian

reservation, could not be prosecuted by the tribe. However, VAWA 2013 provisions allow tribal jurisdiction over non-Indian perpetrators in certain circumstances.

THE VAWA 2013 PILOT PROGRAM

The Confederated Tribes of the Umatilla Indian Reservation ("CTUIR") are one of three federally recognized tribes to be part of the original pilot program authorized by VAWA 2013 to allow tribal courts to have special criminal jurisdiction over non-tribal defendants in domestic violence cases. Besides the CTUIR, two other tribes, the Pascua Yaqui Tribe of Arizona and the Tulalip Tribes of Washington, have also begun exercising special criminal jurisdiction under VAWA 2013.

86 percent of rapes and sexual assaults against Native American women are committed by non-Native American men

TRIBAL JURISDICTION EXTENDED, CONTINUED

VAWA 2013 expands the inherent jurisdiction of tribes that meet certain conditions to prosecute non-Indian domestic violence offenses perpetrated against Indian victims. It

also permits those tribes to prosecute non-Indian protection order violations when the protected person is an Indian. Such authority is limited to non-Indians who reside, go to school, or work on a tribe's reservation.

To exercise this enhanced authority, a tribe must guarantee certain rights to defendants similar to those guaranteed by the United States Constitution, such as the right to a public defender and effective assistance of counsel. Tribes must also include non-Indians in jury pools. From February 20, 2014 forward, any non-Indian who commits a qualifying crime in the Indian country of the CTUIR will be subject to prosecution in tribal court.

Since the beginning of the pilot project, CTUIR has handled four domestic violence cases involving non-Indian defendants. The first arrest was on July 19, 2014. The perpetrator was charged with domestic violence assault. The *same defendant* violated the protection order issued in the case while it was pending and was charged with a

"[T]hese cases definitively show that non-Indian perpetrated domestic violence happens on tribal land—something denied by those opposed to VAWA 2013."

Brent Leonhard,
attorney for
CTUIR

Starting on March 7th, "tribes can claim jurisdiction over non-Native men who commit crimes of domestic violence, dating violence or who violate a protection order against a victim who lives on tribal land. Until now, that jurisdiction has fallen to federal or state law enforcement, who are often hours away from reservations and lack the resources to respond. The result has effectively allowed non-Native abusers immunity from punishment. For the first time, tribal law enforcement will now have the ability to intervene."

(At Last, Violence Against Women Act Lets Tribes Prosecute Non-Native Domestic Abusers, Huffington Post , 3/6/15)

second crime for that. He pleaded guilty on August 28, 2014. A third person pleaded guilty to domestic violence assault on Feb. 5, 2015. There is fourth case pending from February. The perpetrator was arrested for assault, released with a protection order, and violated the protection order soon thereafter.

Brent Leonhard is the attorney for CTUIR. Leonhard thinks these cases, along with those being prosecuted by the other pilot projects, are significant for a number of reasons:

"What these numbers seem to indicate is that **domestic violence victims are more willing to report these crimes to tribal police now that the tribe has jurisdiction over the matter.** It also seems to be that in the cases where the defendants have pleaded guilty, the non-Indian defendants prefer to have their cases handled in tribal court rather than federal court. And, perhaps most significantly, these cases definitively show that non-Indian perpetrated domestic violence happens on tribal land—something denied by those opposed to VAWA 2013."

--Tucker Kraght contributed to this story.

The Oregon
State Capitol



*"I thought, well maybe,
the law could catch up
with changes in society,
and that was an empowering idea."*

Ruth Bader Ginsburg

READY, SET, GO: The 2015 Legislative Session Has Started!

The 2015 legislative session officially began on **February 2nd!** Here is a look at just a few of the Domestic Violence-related bills that have been submitted:

House Bills

HB 2378

Modifies provisions relating to admissibility of hearsay statements concerning certain acts of abuse, criminal mistreatment or theft (provides for exclusion of statements only if only if the court finds that the failure to give notice caused actual prejudice to the adverse party's ability to respond to the statement and that no sanction short of exclusion would remedy that prejudice.)

HB 2397

Requires four-year post-secondary institutions that enroll students who receive Oregon Opportunity Grant to adopt written protocol to ensure that students who report sexual assault receive necessary services and assistance

HB 2628

Disallows all filing fees, service fees and hearing fees in action for court's protective stalking order, even if stalking order is not only relief sought in action. Allows court to include in court's protective stalking order relief necessary to protect children and animals. Declares emergency, effective on passage.

HB 2844

Increases penalty for crime of strangulation when committed knowing victim was pregnant. Expands types of previous convictions that elevate crime of assault in the fourth degree to Class C felony in certain circumstances to include other degrees of assault, strangulation and menacing. Provides that child who witnesses assault or strangulation is victim for purposes of determining separately punishable offenses. Provides that release decision for defendant charged with sex crime or crime constituting domestic violence must include order prohibiting attempted contact with victim and third-party contact with victim while defendant is in custody. Modifies definition of "physical injury" for purposes of Oregon Criminal Code. Provides that for two or more domestic violence or abuse offenses between same victim and defendant, trial may take place in any county in which one offense was committed. Adds threatening to cause physical injury to animal to induce other person to engage in conduct as manner of committing crime of coercion. Creates hearsay exception for certain audio recordings of certified interpreter translating witness statement in criminal matter. Provides that recording is admissible without calling interpreter as witness unless defendant files written objection. Authorizes peace officer to apply for and circuit court to enter ex parte emergency protective order when court finds probable cause to believe that person is in danger of domestic violence, abuse or abduction and protective order is necessary to prevent further domestic violence, abuse or abduction. Provides that emergency protective order expires five days after entry. Appropriates moneys from General Fund for training, prosecuting crimes constituting domestic violence and implementing emergency protective orders.

READY, SET, GO: Legislation Continued

Marian B. Towne was the first woman elected to the Oregon House of Representatives. Oregon women gained the right to vote in 1912 and were allowed to serve in the legislature for the first time in 1914. Towne ran and won a seat for the 1915 session. Her counterpart was **Kathryn Clarke**, the first woman to serve in the Oregon Senate.

HB 3476

Establishes privilege in civil, criminal, administrative and school proceedings for certain communications between persons seeking services related to domestic violence, sexual assault or stalking and victim services programs and advocates. Prohibits disclosure of communications without consent of person seeking services. Declares emergency, effective on passage..

Senate Bills

SB 3

Creates crime of endangering person protected by Family Abuse Prevention Act restraining order.

SB 188

Creates crime of unlawful dissemination of intimate image.

SB 392

Directs Department of Justice to conduct study on domestic violence criminal statutes and present report on findings to interim committees of Legislative Assembly related to judiciary on or before September 15, 2016.

SB 492

Authorizes use of accrued sick leave or personal business leave by certain employees who are victims of domestic violence, harassment, sexual assault or stalking.

SB 525

Prohibits possession of firearm or ammunition by person who is subject to restraining order issued by court under Family Abuse Prevention Act or who has been convicted of certain misdemeanor crimes involving domestic violence.

SB 789

Increases penalty for crime of strangulation. Increases penalty for crime of menacing in certain circumstances. Requires law enforcement officer to perform lethality assessment after making mandatory arrest for domestic assault. Requires court to consider completion of batterers' intervention program as mitigation when imposing sentence for domestic violence crime. Authorizes person to consider past use of force by other person when using physical force against other person in self-defense or in defense of third person.

SB 790

Requires Department of Justice to encourage and support services, programs and curricula to educate and inform students in grades 7 through 12 about domestic violence. Requires school district boards to adopt policies that incorporate age-appropriate education about domestic violence into training programs for students in grades 7 through 12 and school employees. Authorizes Department of Human Services to make grants to and enter into contracts with nonprofit private organizations or public agencies for programs and projects designed to prevent, identify and treat domestic violence.



Clarke on the left. Towne on the right.

Oregon's Domestic Violence-Related Deaths: 2014

The greatest perceptible cost to our communities of domestic and family violence is the tragic loss of life; especially on a local level, the aftershock effects of these deaths are often felt for generations. In 2014 there were 40 domestic-violence related deaths in Oregon that occurred during the course of 28 separate incidents in 14 separate counties. Since 2003, nearly every county in Oregon has suffered a loss of life due to domestic and family violence.

Intimate Partner Violence deaths are in **BOLD**

Police-related deaths are in **RED**
DV incidents (between family/household members) involving victims who were not intimate partners or where the incident did not involve intimate partners are in **PURPLE**

1/27/14, Albany (Linn County): Boy-friend (BF) strangled Girlfriend (GF) in front of 3-year old daughter

1/27/14: Umpqua (Douglas): Husband shot and killed wife and then himself.

2/15/14: Portland (Multnomah): BF shot/killed GF, then himself.

3/5/14: Keizer (Marion): Son shot/killed mom; attempted to kill dad.

3/14: Portland (Multnomah): Man shot/killed Uncle; had previously faced RO for assaulting grandfather.

4/30/14: Salem (Marion): Officers responding to DV dispute shot/killed man.

5/19/14: Portland (Multnomah): GF stabbed/killed BF.

6/8/14: Echo (Umatilla): BF stabbed/killed GF.

6/16/14: Ontario (Malheur): Man stabbed/killed father.

6/27/14: Portland (Multnomah): Man shot/killed wife and then himself. She had recently filed for divorce.

7/3/14: Salem (Marion): Man stabbed/killed his brother.

7/7/14: Molalla (Clackamas): Police called to domestic dispute and possible hostage situation. Man shot/killed by police.

7/9/14: Eugene (Lane): BF strangled his GF to death.

8/19/14: Mt. Angel (Marion Co.): Man strangled/killed the mother of his ex-girlfriend (in hostage situation) and then shot/killed himself. Ex-GF and young child escaped the home.

8/19/14: Coos Co.: Man shot/killed his father. Then shot Michigan tourist who happened to be at the beach where perpetrator had retreated. Then the perpetrator shot/killed himself.

8/29/14: Hillsboro (Washington): Man strangled/stabbed his ex-GF to death. Young child in house during murder. He had RO on him at the time.

8/30/14: Silverton (Marion): Man shot/killed ex-GF. She had RO on him at the time. He tried to kill himself but was unsuccessful.

9/15/14: Metolius (Jefferson): Man shot/killed his son. Man said that son was intoxicated and attacking father's wife/son's mother.

10/6/14: Hood River (Hood River): Man, 29, killed woman, 23, the mother of their 3-year old child. He'd been previously convicted of assaulting her.

10/10/14: Gresham (Multnomah): Man stabbed/killed his aunt (and then robbed a bank).

10/14/14: Ontario (Malheur): Man shot/killed his GF and then himself.

10/19/14: Bend (Deschutes): Man stabbed and tried to kill his mother (she lived) and then shot/killed himself.

11/2/14: Raleigh Hills (Washington): Man shot/killed his ex-GF (she had recently left him) and then tried to kill himself but was unsuccessful.

11/10/14: Portland (Multnomah): Man shot/killed his ex-wife and then shot/killed himself. Woman had filed for divorce and multiple protection orders against ex-husband. Children at location(s) during murder/suicide.

11/11/14: Central Point (Jackson): Man shot/killed wife.

11/11/14: Eugene (Lane): Man shot/killed mother.

11/23/14: Springfield (Lane): BF killed GF.

11/26/14: Oregon City (Clackamas): Woman shot/killed by husband who then shot himself but did not die. Children at the home during murder/attempted suicide.

11/27/14: Sherwood (Washington): Man shot/killed GF and himself. He shot GF's sister but she lived.

12/8/14: Milwaukie (Clackamas): Man shot/killed his wife and himself.

Oregon's Domestic Violence-Related Deaths: 2014

TOTALS

IPV incidents (**In Bold**): 19
 Total Victim Deaths: 19
 Total Perpetrators who committed suicide: 8
 TOTAL Deaths: 27
 TOTAL Incidents involving firearms: 12 (known cause is gun) (63%)
 There are two incidents where the cause of death is unknown
TOTAL Deaths caused by firearms: 20 (71%)
 Perpetrators shot and killed by officers responding
 to "Domestic Disputes: 2 (**In red**)

NOTE: This information is collected from media reports of DV incidents. I only know what is reported and identified as "DV." If I've missed or misidentified an incident, please let me know!

OTHER INCIDENTS:

Domestic Violence (between "family/household members") incidents involving victims who were not intimate partners or where the incident did not involve intimate partners: 9

Total Victim Deaths: 9
 Total Perpetrators who committed suicide: 2
 TOTAL Deaths: 11

TOTAL Deaths caused by firearms: 8 (73%)

TOTAL CUMULATIVE DEATHS: 40

TOTAL DEATHS caused by firearms (not including police-related deaths): 28 (74%)



OREGON'S STATEWIDE DOMESTIC VIOLENCE FATALITY REVIEW TEAM

Driven to respond to the dramatic and unacceptable surge of domestic violence-related deaths in 2010, the statewide **Domestic Violence Fatality Review Team (DVFRT)**, originally authorized by statute in 2005, began to take shape in January 2011. During the year following initial meetings in early 2011, the Team recruited a multi-disciplinary membership and drafted its protocol. The mission of the DVFRT is to improve the coordinated statewide response to and prevention of domestic violence and domestic violence fatalities through the review of domestic violence fatalities throughout the state.

In an effort to honor the victims and family members who lost loved ones, the Team endeavors to complete as thorough a review of a case as possible. Due to the exhaustive nature of the review, the Team ideally will complete, at most, two cases per calendar year. The Team chooses a case for review based on the protocol criteria, as well as the issues or factors the Team feels are timely, relevant, and distinct from any previously reviewed case. The guidelines and structure of the review allow for an in-depth study of the case and the identified issues within that case. The goals are to identify the strengths and weaknesses of the system responses to the parties involved in the DV homicide or homicide/suicide and then, if possible, to offer concise, practical recommendations for each issue. The Team's submitted its biennial report to the legislature on December 9, 2014.

For a copy of the report contact erin.greenawald@doj.state.or.us

LEGAL UPDATING: WHAT THE COURT WANTS YOU TO KNOW

State v. Turntine (9/4/14): Defendant assaulted the victim and was allowed into a deferred sentencing program. Later, the Defendant assaulted the victim again and was charged with and convicted of felony assault. Defendant argued that the deferred sentencing program did not qualify as a “previous conviction.” The Court of Appeals disagreed and upheld the Defendant’s conviction.

State v. Underwood (10/15/14): Defendant assaulted his pregnant wife, the victim. Over the course of many days, the Defendant continued to threaten and coerce the victim, as well. Finally, victim was able to escape with her aunt. At trial, the State, over the Defendant’s objection, admitted victim’s statements that she made to

the aunt five days after the incident. The Court of Appeals upheld that decision and reiterated the criteria for hearsay to qualify as an excited utterance.

State v. Blaylock (12/10/14): Defendant was charged with murdering his wife. At trial, he claimed he accidentally killed her. To show victim’s fear, the State offered testimony of victim’s friends about statements she’d made reflecting victim’s state of mind. The trial court admitted the statements. The court of appeals upheld the trial court’s decision.

State v. Digesti (12/10/14): Defendant forcibly touched the teenaged victim after cornering her at her mother’s house and using his foot to prevent her from opening the door. He was charged with two counts of first degree sexual abuse by means of forcible compulsion. On appeal, the court held that the sex abuse statute contains no requirement that the physical force applied by a defendant must be applied directly to the victim’s body to constitute forcible compulsion. Rather, the state must establish that

the defendant “subjected” the victim to physical force in a way that caused or compelled the victim to submit to the sexual contact.

S.L.L. v. McDonald (12/17/14): While married, Respondent beat and strangled the Petitioner. He was convicted of felony assault in Washington. A provision of his sentence was that he not have any contact with Petitioner. Petitioner moved to Multnomah County. Respondent began to contact her, including leaving messages about sending his

“skinhead friends to come take care of her,” and posting on his webpage a picture of her Multnomah County home taken from the cemetery across the street. Petitioner requested and obtained a Stalking Protective Order. Respondent objected stating that the threats were not “imminent.” The Court of Appeals disagreed and held that while a conditional threat alone is not sufficient

to satisfy the immediacy element for granting a stalking protective order, the context of the threat and other evidence can sufficiently establish an immediate threat for a court to grant an SPO.

State v. Starr (2/11/15): Defendant assaulted his wife and threatened a group of bystanders. The state charged him with attempted first-degree assault, menacing, unlawful use of a weapon, and fourth-degree assault constituting domestic violence. At trial, the judge allowed admission of the victim’s 911 call and her statements to responding police officers as evidence. Defendant objected, arguing that admission of the statements violated his constitutional right to confront the witness who was unavailable at trial. The trial court overruled and defendant was convicted. Defendant appealed and the Court affirmed, holding that the prosecution made sufficient effort to find the victim and that she was “unavailable.” It also held that harmless testimonial statements do not violate the Confrontation Clause.



Oregon
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Domestic Violence
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Newsletter

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MARCH is the 38th annual **National Women's History Month**, and is meant to commemorate and celebrate the contributions of women in American History. **APRIL** is **Sexual Assault Awareness Month** (SAAM). While only formally recognized since the early 2000s, national organizations had been working for decades to select a specific time period for dedicated awareness around the issue of sexual assault. And, of course, prior to our modern struggles, there were amazing and unwavering activists who worked to gain and maintain equality for women. One of those women was **Lucy Stone**. Her quote below serves to bind together the historical importance and focus of these two 'awareness' months:

"It is clear to me that the marriage question underlies this whole movement and all our little skirmishing for better laws, and the right to vote, will yet be swallowed up, in the real question, viz, *has woman, as wife, a right to herself? It is very little to me the right to vote, to own property, etc., if I may not keep my body, and its uses, in my absolute right. Not one wife in a thousand can do that now and so long as she suffers this bondage, all other rights will not help her true position.*" **Lucy Stone, 1855



MaryBeth's Corner: Celebrating One Year of Service!

It is astounding how quickly time flies. I began my career as a Courthouse Dog in Yamhill County just over one year ago. Looking back I have grown so much and have been able to share in some amazing experiences. There were so many 'firsts' after graduation; my first airplane ride, my first day of work, my first snow, my first interaction with a victim. I am fortunate to have such a meaningful job. I have worked with victims and witnesses of all ages this year, from toddler to elderly, of all different backgrounds.



On one occasion, I was playing with a child victim in our soft room as he waited to testify. As we were watching the movie Bolt, he decided that we needed to take a nap. He pulled out his favorite stuffed animals and surrounded me with them, then laid his blanket over me and curled up with me on the floor. It was a great distraction and a very calming time before we had to walk to the courtroom. Everyone I have had the honor to work with has been thankful for my presence and willing to give a pat and rub my ears. Just the other day in Grand Jury, I had a victim tell me that just having me lay next to her feet calms her and helps her have strength. It makes me happy to be able to provide some sense of comfort and normalcy in an often stressful environment.

In the Fall, I had the privilege of attending the Courthouse Dogs Foundation's International Courthouse Dogs Conference in

Seattle. It was a very educational experience and I was able to bring a great deal of information home that I learned from fellow four-legged colleagues. Over the past year I have been to interviews with law enforcement, grand jury proceedings, victim/witness meetings with the DDA, Protective order hearings, Arraignments, Release hearings, Trial report conferences, Plea and Sentencings, various other court proceedings in the juvenile court, and walked the halls with witnesses heading to and from trial. I am quite comfortable with the many different environments in the courthouse and law enforcement offices. I have mastered the protocols of court, except for the occasional audible snore. Every interaction with an individual in our courthouse has been meaningful and I am honored to be here to serve this community. **Please follow me on Facebook MarybethII and Twitter @Mary_BethII.**