

# OCVA Advocate

OFFICE OF CRIME VICTIMS ADVOCACY  
QUARTERLY NEWSLETTER

Serving as a voice within state government for crime victims and their families

## Intimate Partner Sexual Assault and Stalking

Three Washington counties are leading the state in new directions with their coordinated community response to victims of domestic violence. Clark, Kitsap, and Skagit counties are pilot sites for an initiative to aid battered women who are victims of intimate partner sexual assault or stalking. The project was developed by two OCVA staff members and is funded through the Violence Against Women Office by the Grants to Encourage Arrest, Policies and Enforcement of Protection Order Program.

The issue of intimate partner sexual assault and stalking is relatively new and just beginning to be considered by victim service agencies. In the past, domestic violence, sexual assault, and stalking were looked at as separate crimes, but research has shown that at least 60 percent<sup>1</sup> of abused women have been sexually assaulted by their batterers, and that 76 percent<sup>2</sup> of women killed by an intimate partner were stalked by the partner in the year preceding their murders.

Screening domestic violence victims for these two other crimes may increase the likelihood of arrest and prosecution for these crimes. Not only are offenders held accountable for multiple crimes, their victims are also better served by the justice system. Developing and implementing new screening policies for both victim service agencies and law enforcement officers to use has been a result of three years of collaborative effort that also includes first responders and prosecutors. Work has been done to strengthen policies and procedures including new screening protocols. The domestic violence and sexual assault programs have hired and trained advocates to identify, refer and serve victims of intimate partner sexual assault and stalking and incorporated information about stalking and sexual assault into their printed materials. Having police reports and more information about additional crimes can assist prosecutors as they

charge and prosecute offenders.

The three pilot counties were chosen, in part, because they represent three different models for victim service delivery. Clark County has two independent programs administered by the YWCA, one for victims of domestic violence and one for victims of sexual assault. In Kitsap County, the YWCA offers services to domestic violence victims and the Kitsap Sexual Assault Center offers services to victims of sexual assault. Skagit County Domestic Violence and Sexual Assault Services is a dual program with advocates working with victims of either domestic violence or sexual assault.

The law enforcement partners in each pilot county are also varied. Clark County works with the sheriff's office as the lead law enforcement agency as well as a representative from the Vancouver Police Department. Skagit county works with the Mount Vernon Police Department as the lead law enforcement agency but provides outreach to the county sheriff and other

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police departments in the county. The Kitsap county sheriff's office is the primary participating agency in that area.

All three counties have representatives from their county prosecutor's offices and often include victim/witness advocates as team members also. In this way, county teams are both diverse and broad in their knowledge of crime and crime victim services. "These counties are leading the way," says Chris Fenno, who, along with grace call, developed the idea and wrote the grant that brought the funding to Washington. "No one else was taking on the challenge to coordinate safety for victims of these three crimes." To date, team members have taken part in two national panels sharing their experience and achievements through the project.

The project also has a number of statewide partners: Washington Coalition of Sexual Assault Programs, Washington State Coalition Against Domestic Violence, Washington Association of Sheriffs and Police Chiefs, and Washington Association of Prosecuting Attorneys who meet quarterly with the county partners. The Washington Coalition of Sexual Assault Programs has trained over 200 advocates across the state to better identify and work with victims of intimate partner sexual assault or stalking. The Washington Association of Prosecuting Attorneys is also incorporating this information into their trainings. The pilot programs have revealed the importance of collaboration among support services, law enforcement, and prosecutors, locally and statewide, emphasizing the benefits of each understanding the focus and needs of the others.

Continued implementation will see the development by the Washington Coalition of Sexual Assault Programs of a support group curriculum for domestic violence and sexual assault advocates to use in working with intimate partner sexual assault and stalking victims. Also, development and training by the Washington Association of Sheriffs and Police Chiefs for first responder law enforcement officers to identify and document intimate partner sexual assault and stalking. The Washington State Coalition Against Domestic Violence will be integrating intimate partner sexual assault and stalking into their Team 3 training course for multiple disciplinary teams across the state.

For more information about the Intimate Partner Sexual Assault and Stalking Project, please contact Chris Fenno by phone at 360/725.2896 or by email at [christinef@cted.wa.gov](mailto:christinef@cted.wa.gov).

1. Mahoney, P., *Sexual Assault in Marriage*
2. National Center for Victims of Crime

## Domestic Violence in the Workplace

**"THE LEGISLATURE HAS REPEATEDLY AND UNEQUIVOCALLY DECLARED THAT DOMESTIC VIOLENCE IS AN IMMENSE PROBLEM THAT IMPACTS ENTIRE COMMUNITIES."**

—1992 LEGISLATURE

A recent Washington State Supreme Court decision (No. 78421-3) answers the following question:

Is there a clear mandate of public policy prohibiting an employer from discharging an at-will employee because she experienced domestic violence and took leave from work to take actions to protect herself, her family, and to hold her abuser accountable?

In February 1997, Rebecca Smith (*not her real name*) was hired by Laidlaw Transit Services to work with subcontractors providing public transit bus route bids to King County. In October 2002, Laidlaw promoted Smith to the position of scheduling manager. While she was working at Laidlaw, Smith and her five children experienced ongoing domestic violence at the hands of her husband. She moved out of her house in February 2003 after suffering serious physical abuse, but had to leave her children behind.

In August 2003, Smith requested time off so she could move her children away from the abusive situation at home. Smith's project manager initially refused Smith's request because Smith was working on a big project, that needed to be completed. On August 20, 2003, Smith's husband beat her 13-year-old son so badly he had to be hospitalized. Smith immediately moved all five children out of the home. When she returned to work, she requested time off to move her children to a shelter. Her manager subsequently approved paid time off for Smith.

During this time, Smith sought county services to obtain transitional housing, domestic violence education, counseling, health services, and legal assistance. On October 9, 2003, about a month after returning to work, Laidlaw demoted Smith from manager and finally terminated her employment on December 3, 2003.

Smith filed her complaint against Laidlaw in May 2005, alleging Laidlaw terminated her employment in violation of public policy and Washington's Law Against Discrimination (chapter 49.60 RCW).

Was Laidlaw justified in their firing of Rebecca Smith on the grounds that there is not a clear mandate of

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public policy regarding employer responsibility when an employee is experiencing domestic violence?

Smith argued before the courts that she performed a public duty when she acted to protect herself and her children and that she exercised a legal right to obtain protection from her abuser. Smith references several sources of this public policy from the legislative, executive and judicial branches of government. The Supreme Court found a public policy of preventing domestic violence most clearly established in the State's legislative enactments, as well as executive and judicial sources.

The following is a summary of the legislature's expressions of public policy regarding domestic violence. As early as 1979, the legislature recognized that domestic violence is a community problem that accounts for a "significant percentage" of violent crimes in the nation and is disruptive to "personal and community life" (RCW 70.123.010). To that end, the legislature created funding for domestic violence shelters, recognizing that many domestic violence victims are unable to leave violent situations without proper resources. Also in 1979, the legislature enacted the domestic violence act (DVA), requiring law enforcement to respond to domestic violence victims (chapter 10.99 RCW).

**"DOMESTIC VIOLENCE COSTS MILLIONS OF DOLLARS EACH YEAR IN THE STATE OF WASHINGTON FOR HEALTH CARE, ABSENCE FROM WORK, SERVICES TO CHILDREN, AND MORE. THE CRISIS IS GROWING."  
—1992 LEGISLATURE**

In 1984, the legislature enacted a separate Domestic Violence Prevention Act (DVPA) to provide domestic violence victims with the ability to obtain a civil protection order against their abusers (chapter 26.50 RCW). The legislature recognized protection orders as "a valuable tool to increase safety for victims and to hold batterers accountable."

The legislature has since amended the DVPA several times to improve the protection order process including elimination of the filing fee requirement and to give full faith and credit to out-of-state protection orders.

In 1991, after several years of addressing the issue of domestic violence, the legislature took further steps by creating the Address Confidentiality Program (ACP) (chapter 40.24 RCW). The law provides domestic violence victims another layer of protection by allowing the Secretary of State to provide victims with a substi-

tute address in order to prevent abusers from locating their victims.

In recent years, the legislature has expanded domestic violence protection in Washington and highlighted the need for community involvement. In 2002, the legislature enacted laws allowing domestic violence victims to receive unemployment compensation through the state if they leave employment to protect themselves and their children from violence (chapter 50.20 RCW). The legislature goes on to create laws allowing victims to terminate residential leases without penalty (chapter 59.18 RCW) and the creation of a domestic violence prevention account in the state treasury to fund "preventive, nonshelter community-based services, specifically access to legal services (chapter 70.123 RCW). The legislature goes on to further emphasize the importance of prosecuting domestic violence perpetrators (chapter 7.69 RCW) and the need for harsher penalties when the crime of domestic violence is perpetrated (chapter 9A.36 RCW). The legislature has also made violation of a protection order a crime (chapter 26.50 RCW), imposed harsh penalties, denied early release time (chapter 9.94A RCW) and provided for domestic violence treatment programs for abusers (chapter 26.50 RCW).

"The legislature's consistent pronouncements over the last 30 years evince a clear public policy to prevent domestic violence – a policy the legislature has sought to further by taking clear, concrete actions to encourage domestic violence victims to end abuse, leave their abusers, protect their children, and cooperate with law enforcement and prosecution efforts to hold the abusers accountable. The legislature has created means for domestic violence victims to obtain civil and criminal protection from abuse, established shelters and funded social and legal services aimed at helping victims leave their abusers, established treatment programs for batterers, created an address confidentiality system to ensure the safety of victims, and guaranteed protection to victims exercising their duty to cooperate with law enforcement. The legislature's creation of means to prevent, escape and end abuse is indicative of its overall policy of preventing domestic violence." (*Washington State Supreme Court 2008*)

Laidlaw contends that public policy clearly prohibits an employer from discharging an employee because of his or her status as a domestic violence victim or because the employee obtained a protection order, assisted prosecution, removed children from an abusive environment, and/or accessed services for domestic violence victims. However, then existing public policy did not forbid employers from discharging an em-

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ployee due to absenteeism resulting from domestic violence. Discharging an employee for missing work is different from discharging an employee for the conduct she engages in while she is gone from work. Laidlaw claims public policy should be clear in the sense that it provides specific guidance to employers. The dissenting opinion of the Court holds that nothing in the sources of public policy would have given an employer fair notice it may not discharge an employee for absenteeism resulting from domestic violence. While an employer could not discharge an employee because he or she took such actions in response to domestic violence, no clear mandate of public policy prohibited an employer from discharging an employee who missed work or was unable to carry out his or her job functions as a result of domestic violence.

While the Court is mindful of the employer's burden and the need to narrowly construe the public policy exception in order to guard against frivolous lawsuits, in this case the Court simply holds that Washington State has a clear public policy of protecting domestic violence survivors and their children and holding domestic violence perpetrators accountable.

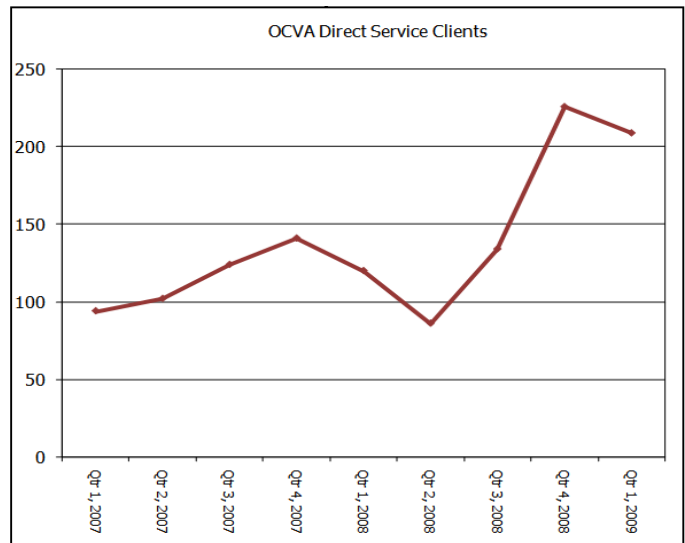
**"THE LEGISLATURE RECOGNIZES THAT DOMESTIC VIOLENCE NEGATIVELY IMPACTS VICTIMS AND THEIR EMPLOYERS AND GOES ON TO DECLARE THAT DOMESTIC VIOLENCE IS THE LEADING CAUSE OF INJURY AMONG WOMEN THAT OFTEN GOES UNDIAGNOSED."**  
—1992 LEGISLATURE

## As The Market Drops, Demand For Services Goes Up

It's hard to hide from all the headlines, talk shows, political speeches and information swirling out there as we reel from the current events of the stock market over the last couple of weeks. Families are losing their homes, private corporations are being bailed out, and victims need us even more.

The U.S. Stock Market has declined 40% in the last 12 months. Compare this decline to a sharp increase in the total number of victim phone calls received by OCVA (chart, above right.) In the past year, OCVA experienced a 134% increase in direct service calls. Many of you are probably experiencing similar increases in demand for your services as well.

So what does this all mean? The following is a short description of what's happening in Washington and



the measures being implemented to stabilize our state's economy. You are probably hearing a lot about the 2009-2011 biennial budget and the projected shortfall of approximately \$3.2 billion.

The 2009-2011 budget will be developed during the next legislative session beginning January 2009, to be implemented July 1, 2009. The Washington State Economic and Revenue Forecast Council conducts quarterly projections of how much money is being collected by the state, to be spent in the 2009-2011 biennium. No worries yet, we're good right now. The state has already collected enough money to pay for everything in the 2007-2009 biennial budget. In fact, we have a surplus, stored away in the Rainy Day Fund.

Get out your umbrellas, because it's Raining! Current forecasts for the 2009-2011 biennium are projected to be approximately \$3.2 billion short. There is a projected shortfall because the amount of revenue being collected by the state in the form of taxes, has decreased. Governor Gregoire, over the last few weeks, has put in place, steps to save \$290 million in an attempt to offset the 2009-2011 shortfall. State agencies are currently implementing the following cost saving strategies:

- Limit on all non-essential travel;
- A hiring freeze to fill position vacancies;
- Defer plans to purchase new equipment; and
- Avoid signing all but emergency related personal service contracts.

State agencies are diligently working to implement these strategies while maintaining excellent customer

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service and ensuring the work gets done and that our partners have the necessary support and resources to do the job you do, well.

Just this week Governor Gregoire announced additional steps to save an extra \$605 million in the 2009-2011 budget. Steps that include 1% across-the-board cuts for state agencies. We, along with other state agencies, are awaiting clarification and direction as to what this 1% cut will look like.

So what does this mean to you as a Contractor? We have no new instructions at this time, but OCVA management and staff are meeting daily to touch in and discuss any new information that comes along. Rest assured, OCVA is working as hard and as smart as we can within the box we've been placed. At this time, we do not anticipate reductions to OCVA contracts.

Keep doing the great work you are doing, and hang in there. Together we will make it through these difficult times, all the stronger because of the experience. We will continue to keep you informed as new information becomes available. If you have questions, please contact your program coordinator, or dial our toll free OCVA contractor line, 1.866.857.9889.

## OCVA Language Bank

The Office of Crime Victims Advocacy has a language interpretation bank available to OCVA contractors and subcontractors. This bank will reimburse organizations directly for interpretation expenses associated with the provision of direct services. Interpretation services may be required for advocacy services that happen in person, as well as services over the phone.

The Language Bank is intended to:

- Reduce the amount of family members, children, or friends who are relied upon for interpreting for victim/survivors of domestic violence, sexual assault and other crimes.
- Allow organizations to provide interpretation for advocacy services without concern for exceeding an approved budget for interpretation.

The Language Bank is not intended to:

- Support the salaries for staff and/or volunteers who are bilingual or who are able to provide accessible services in languages other than English.

- Translation services (of written documents, websites or resources) are not eligible for reimbursement through the OCVA Language Bank. Translation costs should be negotiated with your OCVA program coordinator.

To use the OCVA Language Bank, follow these six easy steps:

**Step One:** Identify interpretation resources in your community and/or service area.

**Step Two:** Contact the interpretation resources in your community to find out the required processes for requesting interpretation services.

**Step Three:** Train the organizations staff & volunteers about how to access interpretation for services provided over the phone or in person.

**Step Four:** Use the interpreters for the advocacy services you provide to victim/survivors of domestic violence, sexual assault and other crimes.

**Step Five:** Pay the invoice when you receive it.

**Step Six:** Use the A-19 form to request reimbursement from OCVA. Complete an A-19 form. Attach the invoice or receipt of interpretation services to the A-19 and send this information to: grace call, OCVA, PO Box 48304, Olympia, WA 98504-8304.

Interpretation services are eligible as long as they are outside the criminal legal system. By law, the criminal legal system is required to provide interpretation services for individuals participating in the system. Interpretation services OCVA will reimburse are related to crisis intervention, information/referral, advocacy, medical advocacy and others.

For more information about the Language Bank, please contact grace call at 360.725.2893 or [gracec@cted.wa.gov](mailto:gracec@cted.wa.gov).

# 4/10's: Changing Times Demand Bold Leadership

The Washington State Department of Community, Trade and Economic Development (CTED) is taking part in the state's trial of a 4/10 work week to save costs and energy.

Beginning October 6, 2008, the Office of Crime Victims Advocacy will be open extended hours from 7 a.m. to 6 p.m., Monday through Thursday. The office will be closed on Friday.

CTED director, Juli Wilkerson believes,

*"[C]ustomer service is our top priority. We are known for approaching our work with creativity and innovation. This will be no different. As we make this change to a four-day work week, every member of our staff is committed to maintaining the high level of service our clients, stakeholders and taxpayers expect and deserve. In fact, we hope that CTED's new extended hours Monday through Thursday will help us serve you even better while reducing our operating costs."*

There will be an OCVA staff person available in the office from 7 a.m. to 6 p.m., Monday through Thurs-

day. These same hours apply to the OCVA contractor line (1.866.857.9889). Just as is the case now, individual staff members' daily start and end times will vary somewhat from person to person. Please contact via email or phone your individual program coordinator for further scheduling information.

As this is a 6-month pilot, it was decided to maintain the same consistent hours of operation for the OCVA direct service line (1.800.822.1067). Staff will be available to answer victim calls, Monday through Friday, 8 a.m. through 5 p.m.

As we work together over the next six months, we hope you will provide us with your honest feedback on this change. Your opinions are important to weighing the success of the 4/10 pilot. At the end of six months, the pilot will be evaluated to determine effectiveness as well as potential expansion to other agencies across state government.

## Washington State Sexual Violence Prevention Plan Update

The Winter 2008 *OCVA Advocate Newsletter* featured an article describing the planned update of the Washington State Sexual Violence Prevention Plan. The Centers for Disease Control (CDC), the federal agency that administers federal Rape Prevention and Education (RPE) funds, is requiring each state to develop a statewide prevention plan. The article outlined the background, anticipated outcomes, and the partners involved in this process.

To date, representatives from across the state have met for seven (7) all-day meetings with the goal of providing OCVA and the Washington State Department of Health (DOH) with guidance on the updated plan. Members of the Community Voices workgroup have had four discussions as part of their regularly scheduled meetings about their ideas and strategies to guide the plan. Community Voices will have another discussion about the plan as part of their final meeting at the end of this calendar year.

The completed plan must be submitted to the CDC by June 2009.

# DNA Stranger Rape Project

Since the late 1980's, law enforcement professionals have been utilizing DNA analysis to identify, arrest, prosecute and lock-up dangerous offenders. DNA analysis has become an essential tool to law enforcement due to the accuracy and scientific linkage it provides between victims and suspects. Also contributing to the success of DNA analysis is the possibility of identifying suspects using limited amounts of DNA sample, such as bodily fluids collected from either a crime scene or rape-kit. Additional benefits to DNA analysis include the capacity of identifying suspects by entering an unknown person's DNA into both the Washington State and national databases for comparison to DNA samples already on file. This is highly beneficial given that a large percentage of stranger rape cases are committed by serial or repeat offenders whose data is likely to be stored in the state and national databases.

Each year the Washington State Crime Lab receives nearly 3000 requests for DNA analysis. The Crime Lab is approximately 1000 cases behind schedule in processing this overwhelming number of requests. To address Washington's increasing DNA requests, the grant allows evidence to be outsourced, therefore decreasing the number of cases awaiting analysis and providing the means to get dangerous offenders off the streets and out of communities.

In 2006, the Washington Association of Sheriffs and Police Chiefs (WASPC) requested grant funding to establish a Stranger Rape DNA test project. The project would allow private labs to assist the Washington State Crime Lab in processing DNA evidence in a more timely fashion. Funding was secured through the Department of Justice (DOJ). Funding under this grant will also cover the cost of expert witnesses should the case go to trial.

"The primary goal of the DNA project is to reduce the number of sexual assaults by increasing the prosecution of unknown suspect cases. Historically, these cases have not received priority for investigation and DNA analysis. By entering DNA profiles into the state and national databases for comparison to DNA samples already on file, we are beginning to connect cases and match to offenders whose data is on file. Crime victim advocates not only have new information to provide victims, but will need to rethink what advocacy means for cases that may be years old when a suspect is identified. DNA analysis and other technological advances are a boon to solving crimes, providing some resolution for crime victims and strengthen-

ing cases for prosecution." *Dawn Larsen, Director of Projects, WASPC.*

Across the nation, DNA cases that are entered in to the Combined DNA Index System (CODIS), a national DNA databank, are matched approximately 30-35% of the time with existing DNA samples already on file. During the 2007 grant year, WASPC had an approximate hit rate of 25%, with at least 3 known convictions as a result.

As the project expands into year two, Dawn Larsen, Director of Projects and lead for the DNA Stranger Rape Project, continues to travel the state providing primary information and awareness training to law enforcement and victim advocates. A training is scheduled in Walla Walla November 19, 2008. If you are interested in scheduling a training for your local organization and community partners or have specific questions about the project, please contact Dawn Larsen by phone at 360.486.2419 or by email at [dlarsen@waspc.org](mailto:dlarsen@waspc.org).

**Mark your calendar!**



**OCVA Conference**

March 23 - 26, 2009

Yakima Conference Center

Yakima, WA

*Check out our website*

*[www.ocva.wa.gov](http://www.ocva.wa.gov) for more details!*

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The Office of Crime Victims Advocacy serves as a voice within state government for the needs of crime victims in Washington State.

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The OCVAdvocate is a quarterly publication of this office. Unless otherwise noted, articles were written by OCVA staff.

Topic ideas for future issues may be sent to the address below or e-mail [ocva@cted.wa.gov](mailto:ocva@cted.wa.gov).



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