

Welcome to Marion County District Attorney's Office newest quarterly newsletter, *CAIR (Child Abuse Issue Review)*.

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Marion County District Attorney's Office | 4th Quarter 2016



Welcome Back!

In 2013, the Commission to Eliminate Child Abuse and Neglect Fatalities was tasked with learning everything they could about reducing child maltreatment and child fatalities by abuse. Their final report* was released this year, and it made three major recommendations for a national strategy for safer children: (1) Create **strong leaders who work across systems** to begin a new child welfare system, (2) focus on **data collection and analysis** to inform decision making, and (3) instilling **cross-system prevention and early intervention**, which is critical to healthier families and communities.

In our county, we're ahead of the curve in some of these areas (for example, our office's specialized, co-located, full-time Domestic



Now that the 2016 Holiday Season is upon us, it is a great time to reflect and be thankful. And although I have much to be thankful for, I cannot forget that vulnerable, at-risk children still live in our community. No single agency, acting alone can address all of the complex familial issues

Violence (DV) victim advocate to support DV victims who have concurrent child welfare cases). While the Commission's recommendations validate our accomplishments, they also create a new sense of urgency for collaborative systems that keep our local families safe--especially at the intersection of law enforcement and child welfare systems.

At the heart of successful collaboration, is the continued communication and partnership between our organizations. As such, we hope you find this quarter's newsletter a helpful tool on the communication front, which features the following:

- Introduction of the new CART subgroup: "Commercial Sexual Exploitation of Children (CSEC)
- Case Law Updates
- FAQs
- Dates to Remember
- Recent Success Stories
- Stats: Cases by the Number
- Suggested Reading
- Contact Information

Should you need to access previous newsletters and case law updates, please be sure to click [here](#). Thank you again for all that you do.

--Team Y

*The report can be found [here](#).

needed to keep children safe.

Instead, a community effort and collaborative response is required. Therefore, I am thankful for this community's support and dedication to safe families, as well as our office's partnerships with local community organizations, law enforcement, DHS and active community members. With these relationships, I know that 2017 will bring us even farther down the road to safer families.

Thank you.

Walter M. Beglau
District Attorney

New CART Subgroup:

Commercial Sexual Exploitation of Children (CSEC)

In 2016, CART began a new subgroup known as “Commercial Sexual Exploitation of Children (CSEC),” which focuses on children who are being trafficked and sexually exploited. Working closely with Liberty House and Safety Compass, which provides direct services and advocacy in a culturally-specific manner to survivors of sex trafficking, this committee was able to form a community coalition to address this issue locally. Members include law enforcement, medical professionals, HOME, emergency department personnel, OYA, and school officials.

CSEC is currently working on determining the scope of the trafficking problem in Marion and Polk Counties as well as developing best practices and protocols for serving victims of trafficking.

CSEC presented at this year’s Child Abuse Protocol and is working with DOJ to bring a Technical Assist training to law enforcement and prosecutors. This free training will be held on January 26, 2017, at the Keizer Community Center. Registration is available through DPSST. CSEC plans on developing shorter training for law enforcement agencies as needed.

Scope of the Problem: On average, one of three homeless youths will be contacted by a pimp within 48 hours of hitting the streets. Children who are trafficked may still be under the control of a pimp/manager, even after being returned to their home or foster care.

Look for possible trafficking indicators and red flags* such as:

- Chronic runaway/homeless youth

- Excess amount of cash in their possession (may be reluctant to explain its source)
- Hotel keys and key cards
- Lying about age/false ID
- Inconsistencies when describing and recounting events
- Unable or unwilling to give local address or information about parent(s)/guardian
- Presence or fear of another person (often an older male or boyfriend who seems controlling)
- High number of reported sexual partners at a young age
- Sexually explicit profiles on social networking sites
- Injuries/signs of physical abuse (that they may be reluctant to explain)
- Inability or fear of social interaction
- Demeanor exhibiting fear, anxiety, depression, submissiveness, tenseness, nervousness
- Is not enrolled in school or repeated absence from school
- Lack of perception that they are a victim
- Loyalty to positive feelings toward pimp/trafficker
- May try to protect pimp/trafficker from authorities
- Prepaid cell phone

If you think you may be investigating a case with a youth involved in trafficking, please contact Tiffany Underwood at the Marion County DAs Office (contact information below).

*Source: NCMEC

Case Law Updates

State v. Makin, 360 Or 238 (2016) - CHILD NEGLECT: A person does not commit first-degree child neglect for permitting a child to stay “in a vehicle where controlled substances are being delivered,” ORS 163.547(1)(a)(A), based on a Boyd theory of delivery

(possession with intent to deliver).

State v. Friddle, 281 Or App 130 (2016) - SEARCH AND

SEIZURE- ELECTRONICS: The court found impermissibly overbroad a warrant that allowed seizure and search of “any” and all electronics that could contain data of Defendant’s home security system. Without more than the officer’s “training and experience,” connecting that experience to the facts of the particular case, was insufficient to meet probable cause. The court further expressed concern regarding the state’s argument that the electronics needed to be seized to prohibit remote deletion, however, it did not address that issue directly.

State v. Antoine, 269 Or App 66 (2015) (et. al.) CHARGING: This case (and its progeny) requires the state to choose (“elect”) pre-trial which count on the indictment connects to which act in cases of repeated, on-going abuse (i.e. “the rape count is for the time it happened in the bathroom...”). **Tip:** It is helpful during your investigation to see if the victim can articulate any distinguishing feature between the assaults or any distinguishing factor (smells, clothing, location, time of day, etc.) * Remember!!! It is completely normal that victims experiencing trauma, young children, or developmentally delayed victims, may not be able to do this.

Additional Case Law Updates:

Additional updates are available on our website as follows:

[June 2016 case law and legislative updates](#)

[September 2016 case law update](#)

Cases by the Number

The following provides a snapshot of case filings by category between September and December 14 for 2013, 2014, 2015, and 2016, respectively.

	2016	2015	2014	2013
Child Abuse - Sexual Assault	37	54	36	39
Child Abuse - "Other"	40	30	31	37
All Child Deaths	1	1	7	4
Drug Endangered Children*	2	1	15	31
Delinquency Petitions	159	206	217	185
Dependency Petitions	150	109	132	177
Domestic Violence	316	338	365	347
Elder Abuse	11	5	4	2

*Note regarding Drug Endangered Children Cases: recent case law has removed our ability to prosecute these cases.

CART: FAQs



Q: If a parent assaults a child who resides in the same household, is that considered domestic violence?

A: No. Although domestic violence means abuse between family or household members, family or household members are defined as: spouses, former spouses, adult persons

related by blood or marriage, persons cohabitating with each other, persons who have cohabitated with each other or who have been involved in a sexually intimate relationship, or unmarried parents of a minor child. ORS 135.230.

Furthermore, **cohabitating means persons live in the same residence in a relationship similar to spousal relationship.** State ex rel Juvenile Department v. C.M.C., 243 Or App 335, 259, P3d 938 (2011)

Q: What should I be looking for when investigating a "revenge porn" case?

A: When investigating Unlawful Dissemination of an Intimate Image (ORS 163.472), please look for the following information:

- Who had access to the image previously? If your suspect is the only one who the victim sent the image to, that strengthens the case.
- Ask for consent to search the cell phone. Look for text messages or threats to the victim by the suspect leading up to the image being posted. (There is usually a veiled threat prior to the post.)
- Always ask yourself, "is there a potential identity theft here?" Did the suspect log into the victim's account using her username and password? Connecting property offenses often make these suspects presumptive prison.

Remember: a prior conviction make the second offense a felony.

Suggested Reading

If you would like more information on the connection between domestic violence and child abuse, as well as how to support children who have witnessed violence in their homes, please click [here](#) for an excellent article.

Science is increasingly showing that trauma has a significant impact on children, some of which is long term and permanent. To learn more about how trauma can affect our kids, please review another great resource located [here](#).



Success!

- On October 21, over 140 local law enforcement, DHS caseworkers and supervisors, medical personnel, attorneys, and other community partners attended the annual Marion County CART protocol training (see above image). We reviewed physical injuries concerning abuse, Karly's Law protocol, staffed hypotheticals, and reviewed local procedure for child abuse investigations. Thank you to DPSST, presenters, and everyone who attended. Please save the date for one of the Fridays in October 2017 (TBA).
- **Detective Matt Hagan (MCSO)** interviewed numerous peripheral witnesses during the investigation of a rape case. Those interviews helped corroborate the victim's testimony and led to the defendant being convicted of Rape I and Sodomy I. After everything he did, one of the most critical elements to the victim was that he attended the verdict. Thank you, Matt.
- **Shane Derekson (MCSO)** went above and beyond in the prosecution of an individual charged with Using a Child in Display of Sexually Explicit Conduct. He sat with the DDA at counsel table while the (horrific) case was presented and put together the final exhibits the

morning of trial. Thanks to his efforts, the defendant was convicted and is pending sentencing.

- **Scott Nowning (SMP)** came back from medical leave to do a last minute follow up request on an extremely dangerous serial rapist. This critical investigation led to a guilty jury verdict and a sentence of over 430 months for the forcible rape of two women.
- **DDA Gillian Fischer** was successful in several jury trials over the past 3 months (in fact, she was set for a jury trial every week between mid October to mid December). Each case was very serious and she either got a guilty plea or successfully prosecuted each case through trial. Please mention her hard work the next time you see her! Good job Gillian!

Dates to Remember

January 26, 2017

Free training! Combatting the Commercial Sexual Exploitation of Children -- Technical Assistance Training for Law Enforcement & Prosecutors. To register, email your name, job title/employer, and contact information to: combatingtrafficking@doj.state.or.us

February 25, 2017

The Marion County Sheriff's Office has partnered with the Special Olympics Oregon for many years, and are looking for team members to join their Polar Plunge at Broughton Beach on the Columbia River in NE Portland.

Nobody likes cold water--so that's no excuse. If you can brrrrrrrave it, click [here](#) to sign up for "The Shiverin' Sheriff's" team or to donate. If you want to be part of this worthy event, please sign up as soon as possible.

Who We Are

Please feel free to reach out to us with any questions.

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