



Disrupting the Cycle of Violence: Prosecuting Domestic Violence Offenders in Possession of a Firearm





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DISRUPTING THE CYCLE OF VIOLENCE: PROSECUTING DOMESTIC VIOLENCE OFFENDERS IN POSSESSION OF A FIREARM

INTRODUCTION

Providing timely, responsive, high-quality victim services has the ability to interrupt a cycle of violence among a family, peer group, or community; reduce risk of future victimization; encourage continued engagement throughout the investigation/prosecution; and increase victim and community trust in the justice process.¹ United States Attorney's Offices (USAO), law enforcement agencies, courts, and community organizations across the country are developing innovative strategies that not only reduce crime, but also support victims as they cope, and recover from the trauma of these crimes.

Developed by the National Center for Victims of Crime (NCVC) and CNA Project Safe Neighborhoods (PSN) Training and Technical Assistance providers, this brief is one in a series designed to highlight leading victim service efforts. The goal of the series of briefs is to provide PSN teams with insight on innovative victim services efforts, how victim services efforts can integrate with PSN teams, and the impact that these programs can have on agencies and individuals. Each brief will provide an overview of a victim services organization or initiative and its successes, challenges, and lessons learned.

This brief focuses on the efforts of a Western District of Oklahoma (WDOK) USAO initiative, known as Operation 922. Developed in 2018, Operation 922 is a local implementation strategy of PSN that prosecutes "domestic violence-derived" violent crime cases by focusing on enforcing federal gun laws, specifically 18 U.S.C. § 922, which precludes specific individuals from possessing firearms or ammunition.² Operation 922 focuses on domestic violence (DV) abusers who are subject to a Victim Protection Order (VPO), or who have been previously convicted of a misdemeanor DV crime. In doing so, this dual focus of Operation 922 is not only removing violent offenders from the community but also protecting current and potential victims of DV. This brief will examine the problem that Operation 922 is seeking to address, describe Operation 922 strategies, discuss the impact it is having, and provide lessons learned for PSN teams to consider when considering developing similar strategies in their districts.

¹ Center for Victim Research, 2019. "Losing a Loved one to Homicide: What We Know about Homicide Co-Victims from Research and Practice Evidence." Accessed July 20, 2019 at https://ncvc.dspacedirect.org/bitstream/item/1440/CVR%20Research%20Syntheses_Homicide%20Covictims_Report.pdf?sequence=1

² Information on Operation 922 was gathered from a PSN Training and Technical Assistance site visit, direct conversations with WDOK, and relevant publications and news articles on these efforts.



DOMESTIC VIOLENCE IN WDOK

The WDOK includes 40 counties and covers approximately 40,000 square miles, with a population of almost 2.1 million. Oklahoma City is the largest city in the district; the city and surrounding metropolitan-area counties account for approximately 1.4 million residents. While Oklahoma County contains about 23 percent of the state's population, it accounts for almost 40 percent of the state's DV homicides. In addition, in 2017, the Oklahoma City Police Department received nearly 35,000 DV calls for service. Given these DV rates in WDOK, the Oklahoma County District Attorney's Office screens about 3,000 DV cases per year and prosecutes approximately 1,500 of these cases, split between felony and misdemeanor offenses.

This case load presents challenges to staffing and prioritizing cases to prosecute. Limited state resources to prosecute DV cases resulted in strain on the system and disillusionment in the criminal justice system among victims of these crimes. In addition, currently, the State of Oklahoma does not have a felony charge that prohibits a person subject to a VPO, or who has a prior conviction for misdemeanor domestic assault and battery, from possessing a firearm. Given these circumstances, the WDOK USAO worked to identify ways it could address these startling circumstances, reduce the overload of DV cases in the system, and provide support to victims of DV. WDOK USAO ultimately developed Operation 922 using PSN funds.

OPERATION 922

Domestic abusers often commit increasingly violent acts over time. When violent perpetrators escalate their violent offenses to include a firearm, the likelihood of a lethal consequences increases. Given these circumstances and the context of the WDOK, Operation 922, with district PSN support, develops and prioritizes cases against domestic abusers that should not be in possession of a firearm to disrupt this cycle of violence before it becomes deadly. WDOK's strategy to charge violent offenders who have escalated to a point where they possess firearms serves as a catalyst for prosecution by charging felony firearms cases where state prosecutors are unable to do so. The USAO and fellow district leaders emphatically believe that focusing on these violators will save the lives of victims, intimate partners, and law enforcement officers who are called to respond to DV calls.

Operation 922 is a partnership between the USAO; the Oklahoma City Police Department; the Oklahoma County Sheriff's Office; the Oklahoma County District Attorney's Office; the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the United States Marshal's Service; and the Palomar Family Justice Center, a victim services provider. Each partner plays a key role in the Operation with a District Attorney serving as a liaison between all the partners and is a representative of the USAO as a Special Assistant United States Attorney. In addition, the Palomar Family Justice Center not only provides services to victims of DV, but also houses many of these partners collaborating on Operation 922, including members of the USAO, the Oklahoma City Police Department's Domestic Violence Unit, the Oklahoma County Sheriff's Officer and the Oklahoma County District Attorney's Office to increase regular interaction among all parties.



Every Thursday, members of the Operation 922 team go to the Palomar Center to discuss potential DV-derived 922 cases with the District Attorney’s (DA) office. These meetings provide a dedicated time to share information on potential perpetrators that would be best suited for prosecution under Operation 922. The USAO noted that this dedicated time and constant community input is pivotal to ensuring timely development of cases against these perpetrators that may otherwise not have been prosecuted under state law.

In addition, Operation 922 protects victims in several ways. For example, federal prosecution brings meaningful pretrial detention or monitoring. It also brings speedy trials, prompt case resolutions, and certain sentences. This provides an opportunity for the justice system to break the cycle of violence, extract the high-risk offender from the scene, and provide much-needed relief for DV victims. The enforcement focus of Operation 922 is coupled with comprehensive services and support provided by the Palomar Family Justice Center. WDOK’s prosecution of these cases as federal firearms violations also protects the victims from the necessity to testify about the specific abuse by the defendant, because the federal prosecution is an evidence-based approach that focuses on the illegal possession of the firearm.

OUTCOMES

Operation 922 is having an impact on prosecution of violent offenders, protections for victims, and observed trends in statewide DV indicators. At the individual level, known violent offenders are being charged on, found guilty of, and sentenced for illegal gun possession.

Table 1 provides a summary of the outcomes of cases developed through Operation 922 since inception in March 2018. As a result of these cases, in

May of 2019, four individuals were found guilty and sentenced to a combined 188 months in federal prison as part of Operation 922. In addition, in October of 2019, two more individuals were convicted of illegal possession of ammunition and firearms as part of the Operation. The USAO noted that approximately 30 to 40 percent of individuals charged under Operation 922 also had gang affiliations. These convictions of violent offenders are undoubtedly playing a role in local rates of violent crime as a result as well.

At the state level, Operation 922 is a part of a larger trend within the state to reduce DV more broadly. An analysis of intimate partner homicide data by the Violence Policy Center from 2015 and 2017 illustrates the progress that the state has made in this specific area but there is still room for improvement. In 2013, Oklahoma ranked third in the country in rates of females murdered by males in a single victim/single offender incident, a common measure

Table 1. Outcomes

Outcomes	Totals
DV-derived defendants charged	100 individuals
Defendants convicted/guilty pleas	85 individuals
Defendants sentenced	62 individuals
Average sentence	83.1 months
Number of firearms seized	154 firearms
Ammunition seized	3,117 rounds
Matters pending	17

Source: *United States Attorney's Office, Western District of Oklahoma. Personal Communication, May, 26, 2020.*



of DV, with almost 2 females per 100,000.³ Given the efforts to reduce DV incidence in Oklahoma, including Operation 922, in 2017, Oklahoma’s homicide rate in this category had reduced to 1.41 females per 100,000, ranking 20th in the country.⁴ While any DV homicide is unacceptable and more work is still needed in this area, data-driven prosecution strategies like Operation 922 will help continue to reduce this number.

LESSONS LEARNED

As PSN teams consider the success of Operation 922, there are a number of insights to consider when considering their own PSN initiatives or developing similar DV-focused efforts.

Meaningful Collaboration among Partner Agencies and Organizations. A key ingredient in the success of Operation 922 is that it is a joint collaboration among key actors in DV prosecution and support in the WDOK. From the DA and USAO to the police, parole, and victim support organization, each partner contributes time, data, and resources to Operation 922 to build these cases and support victims of DV. When evaluating any initiative, a PSN team should examine the key actors that contribute to the successful development, implementation, and sustainment of that initiative and ensure that these groups are having meaningful interactions to develop cases on a regular basis.

Increasing Awareness of Operation 922. WDOK has put a significant effort to ensure that individuals, perpetrators, community organizations, and the broader justice community understand and are aware of Operation 922. These efforts have included routine announcements from the USAO on successful prosecutions under this initiative (mentioned above). The USAO also developed Operation 922 handout cards (Figure 1) that provide the key pieces needed to develop a case under 922 and where to start looking in the various databases. Operation 922 team members provide these cards to fellow justice organizations with USAO contact information to increase the reach of the effort and help identify appropriate cases for prosecution. The USAO noted that these efforts have led to opening numerous new cases under Operation 922. In addition, WDOK has presented their novel PSN strategy specifically targeting DV at the

Figure 1. Operation 922 Card Handout

Title 18 U.S.C. § 922(g)(8)&(9):
(g) It shall be unlawful for any person—
(8) Who is subject to a court order (VPO) that—
(check www.oscn.net – look for ‘PO’ cases)
(A) Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
(B) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
(C) (i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
(ii) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury;
OR
(9) Who has been convicted in any court of a misdemeanor crime of domestic violence,
(check www.oscn.net—look for ‘CM’ cases)
to ship or transport . . . or possess . . . any firearm or ammunition. . . . (We need the gun!)

³ <http://www.vpc.org/studies/wmmw2013.pdf>

⁴ <http://www.vpc.org/studies/wmmw2019.pdf>



2018 PSN National Conference in Kansas City, Missouri, in December 2018. Collectively, these efforts have helped increase awareness on and success of Operation 922.

Effective Data Systems to Identify Potential Cases for 922 Prosecution. When speaking with a team member of Operation 922, it was clear that reliable data was a key aspect of development of these cases for prosecution. Information on pending state cases is readily available to the WDOK USAO. This database is a starting point for many Operation 922 cases as they typically include whether the individual was in possession of a gun upon arrest. However, not all states have similar centralized databases; they are often siloed within agencies or do not exist at all. As a result, PSN teams without access to these data should consider other means of identifying individuals for prosecution. An Operation 922 team member recommended identifying agencies that deal with VPO violations and then identify other forms of data such as arrest reports to build 922 cases.

Comprehensive victim services for DV victims is a complex system, with many actors contributing to effective prosecution of violent offenders and support for victims. Operation 922 illustrates that there are innovative efforts that can not only address violent crime but also can support victims through the levers available to a USAO, including prosecuting DV abusers that should not be in possession of firearms.

For more information on Operation 922 or to learn more about how to integrate support for victims in your PSN approaches, please reach out to Benjamin McCarty, director of NCVIC's PSN program, at bmccarty@victimsofcrime.org.



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