

From Victim to Perpetrator: Shifting Identities in the Eyes of the Law

2014 Crime Victim Law Conference

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California Victim

"Victim" means a person against whom a crime has been committed.

Cal. PC 679.01(b)

Oregon Victim

"Victim" means the person or persons who have suffered financial, social, psychological or physical harm as a result of a crime and includes, in the case of a homicide or abuse of corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor. *In no event shall the criminal defendant be considered a victim.*

ORS 131.007

Victim Sharwline Nicholson

New York

- **Single mother of two small children**
- **Estranged from Barnett, daughter's father**
- **Barnett had no history of violence**
- **In 2000 Nicholson broke up with Barnett**
- **Barnett flew into jealous rage**
- **Barnett punched, kicked, & threw objects at Nicholson**
- **Nicholson was bleeding profusely from head, broken arm**
- **Nicholson called 911, asked neighbor to care for kids, contacts relatives.**

Defendant Sharwline Nicholson

New York

- NY ACS took custody of Nicholson's children
- Children were in "imminent risk" if they remained in her care because Nicholson was unable to protect them & because "Mr. Barnett had viciously beaten her."
- ACS charged Ms. Nicholson with neglect for engaging in "acts of domestic violence."
- Nicholson led class action suit
- 2001 District Court ruled for Nicholson, ACS appealed
- 2004 2nd Circuit sent to NY Ct. of Appeal
- Mother's inability to protect child from witnessing abuse is not = neglect, can't be sole basis for removal & removal must be balanced against psychological harm.

Victim Marissa Alexander

Florida

- Mother of 11-year-old twins, 9-day old baby
- Estranged husband, Rico Gray, had a history of throwing and punching Alexander in the face
- Alexander had a restraining order against Gray
- Gray was away. Alexander went to collect things from their home.
- Gray returned. While Alexander was in the bathroom, Gray began reading Alexander's text messages
- Gray flew into jealous rage, broke into bathroom, and began assaulting Alexander
- "If I can't have you, no one can." "I'll kill you"
- Gray trapped Alexander in the garage



Defendant Marissa Gray

Florida

- Alexander retrieves pistol from car in garage & fires warning shot into the ceiling
- 2010 Alexander charged w/ 3 counts of Aggravated Assault w/ a Deadly Weapon
- Prosecutors offer 3-year plea deal
- 2011 Alexander's motion for Stand Your Ground immunity denied
- 2012 Alexander convicted & given 20-year mandatory sentence
- 2013 Conviction overturned since self-defense jury instruction was erroneous
- 2014 Retrial set for July 28. Prosecutors announced pursuit of 60-year mandatory sentence



- Taken at 15 by Oliver Wilson-pimp drug dealer
- Forced into prostitution
- Whipped, beaten, publicly humiliated, Russian roulette for 6 years
- Wilson molested her daughter
- Peagler tried to leave, Wilson wouldn't let her

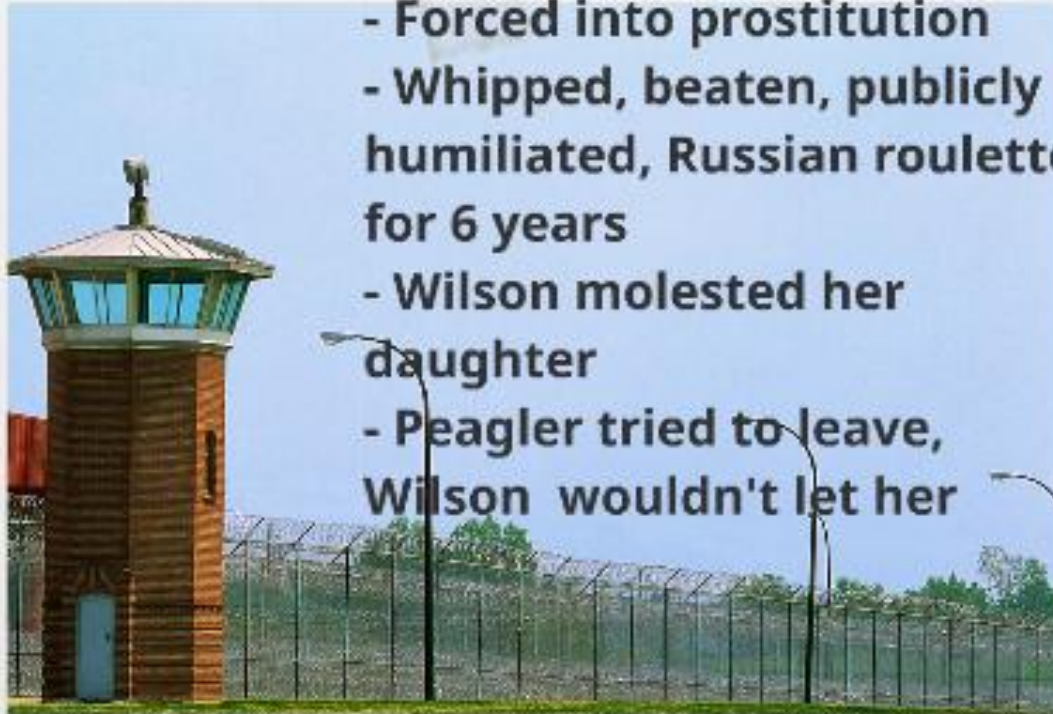
Victim Deborah Peagler
California

- 1982 Peagler's mother asks friends to make Wilson leave her daughter alone
- Peagler arranges for Wilson to be in park & leaves
- Wilson strangled to death
- 1983 DA seeks death penalty against Peagler
- Peagler takes plea of life to avoid death penalty
 - 2003 Cal PC 1473.5 enacted
 - 2005 plea agreement w/ DA
 - 2006 DA breaks plea agreement & trial court denies petition
 - 2007 court of appeal overturns & DA disqualified for conflict of interest
 - 2009 Peagler released

Defendant Deborah Peagler
California



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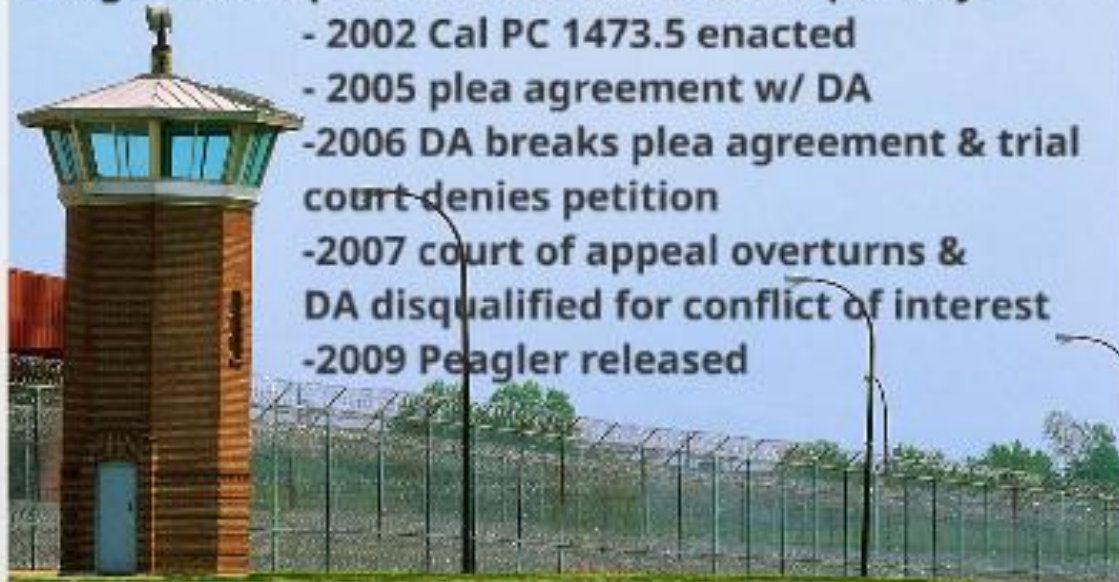
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YouTube

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Defendant Deborah Peagler

California

Victim Margaret Kosmin

New Jersey

- Kosmin raised by violent alcoholic father
- Kosmin (14) began dating William Kelly in 1975
- Kelly brutally physically & sexually abused her
- Kosmin became pregnant, forced to drop out of school and live with Kelly
- Kosmin attempted suicide
- Kelly told her he would kill her if she left him
- Kosmin escaped for 14 years, enjoyed normal life; Kelly threatened to kill her family
- Kelly found Kosmin, age 31, in 1992, by threatening her uncle's life
- Violence resumed; Kelly broke into her house; Police needed K-9 unit to remove him
- Restraining order; Kelly violated many times; beat her at train station with metal club
- Kelly in and out of jail
- Kosmin attempted suicide again

Defendant Margaret Kosmin

New Jersey

- Kelly called Kosmin to pick him up from jail
- Kosmin and a friend picked Kelly up, shot him, drove to woods, set car on fire
- Kosmin pled guilty to aggravated manslaughter & other charges; sentenced to 22 years
- Model prisoner; psych eval "inordinately supportive of release on parole:" Kosmin insightful & remorseful; no imminent risk of violence
- Parole denied in 2001 and on appeals in 2002, 2003
- In 2003, NJ appellate court reversed Parole Board & ordered Kosmin released

Men & the Intergenerational Cycle of Violence

- Sons of DV - 60% will batter a partner**
- 3X the % of boys who do not witness DV**
- 63% of boys (11-20) convicted of homicide murdered the man abusing their mother**



YouTube

Next Steps

- Cultural shift
- Social Services
- Police response
- Mitigation
- Post-conviction remedies

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- Children were in "imminent risk" if they remained in her care because Nicholson was unable to protect them & because "Mr. Barnett had viciously beaten her."
- ACS charged Ms. Nicholson with neglect for "domestic violence."



Prezi