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## STRATEGIES IN FOCUS



### Office of the Commonwealth's Attorney, Arlington County

The criminal justice system is known for having disparate impacts on communities of color, lower socioeconomic means, and other minority groups compared to wealthier or more predominantly white communities, even if these communities are separated by mere blocks. This problem is especially prevalent in Arlington, where, according to Nova Health, neighborhoods divided only by a single street may have dramatically different demographics, socioeconomic statuses, housing, and crime rates. Many of these traditionally underserved communities may have a lack of trust

in law enforcement or view it as a threat to both themselves and the safety and integrity of their community.

Recognizing the wealth and racial disparities within Arlington County that lead to disparate access to services, the [Office of the Commonwealth's Attorney \(OCA\) for Arlington County](#) and the [City of Falls Church](#) created the Heart of Safety Restorative Justice Conferencing Program. This program focuses not only on enhancing public safety but also on restoring trust and accountability between offenders and their victims. The OCA screens for cases where restorative justice would be appropriate. If the OCA obtains consent from all parties to participate in this program, it then refers parties to Restorative Arlington, a community-based nonprofit with whom the OCA is partnering on this project.

The restorative justice process provides an opportunity for victims of crime to decide what they need to be whole after the harm that has been done to them while simultaneously allowing defendants to take meaningful accountability for the harm that they caused. Restorative Arlington organizes and facilitates meetings between each party and trained facilitators who create safe environments for this process to occur. After many individual preparation sessions and with the consent of both parties, facilitators may then organize a meeting between the victim and the defendant. During this meeting, the defendant has the opportunity to take responsibility for their actions and work with the victim to decide what accountability looks like to the victim. Once the conferencing is complete, the OCA monitors any progress made towards commitments between the defendant and victim. Charges of cases resolved through this program may either be reduced or dismissed with potential eligibility for expungement. A significant number of cases—both juvenile and adult—have already been referred to this program, and several charges have been dismissed as a result. In addition, the OCA is seeing an increase in referrals as the public becomes increasingly aware of the program.

In a case shared by Restorative Arlington (with names changed), Jack initiated a bar fight with Devon. After the altercation, Devon required hospitalization, missing two weeks of work and countless hours with his family, including his eldest child's musical recital. Because he was out of work, he missed a car payment and a

mortgage payment. In total, he estimated that the entire situation cost him \$15,000; however, the loss he felt most deeply was his sense of peace and trust in his community. Devon no longer felt safe, and he feared that if he testified against Jack or if the prosecutor lost the case against Jack, he and his family could be targeted for retaliation. Since he did not own a suit and struggled to understand the procedures and vernacular of the courtroom, he also worried that he would not be treated with the level of respect owed to him. He did not want to continue to feel humiliated or belittled in his efforts to seek justice. Because of this, Devon chose to seek justice through the Heart of Safety restorative justice program. During pre-conferencing, Devon expressed his desire to face the person who harmed him without fear. After many individual sessions where Devon could select convenient times and locations to meet Jack, facilitators were able to organize a face-to-face meeting between the two. Jack explained why he attacked Devon and how he had acted against his own values in doing so. Devon was able to make specific requests for compensation from Jack to prove his commitment to avoiding causing such harm again. Jack volunteered financial restitution and other restorative actions to show his commitment, which he completed within 30 days of their conference. In the end, Devon received the answers that he needed and a renewed sense of peace in his community.

## CASE HIGHLIGHT

### [Delligatti v. United States](#)

Issue: Whether a crime that requires proof of bodily injury or death, but can be committed by failing to act, has as an element the use, attempted use, or threatened use of physical force.

Facts: In 2017, Defendant Delligatti was indicted on several charges related to organized crime including racketeering conspiracy, conspiracy to commit murder in aid of racketeering, attempted murder in aid of racketeering, conspiracy to commit murder for hire, operating an illegal gambling business, and possessing a firearm in

furtherance of a crime of violence. The Defendant moved to dismiss the firearm possession charge under the argument that none of the predicate offenses used to support that charge qualified as “crimes of violence.” He argued that because he did not personally commit any violence with his own hands (despite engaging in a conspiracy with violent ends), his alleged crimes could not be considered crimes of violence. The trial court disagreed with the Defendant, and he was convicted and sentenced to 300 months with the mandatory statutory enhancement of a consecutive sentence of 60 months.

If successful, the defendant’s arguments could impact a wider body of cases than simply those involving criminal conspiracies. Many states have laws that state a person who has a duty to act but fails to do so can be criminally liable. Common examples of cases such as these include failing to give a sick person medicine or neglecting to feed a dependent. These cases can result in severe harm or even death to the victims involved, but the actual crime is in the defendant’s inaction. Federal law allows for enhancements to sentences for any crime classified as a “crime of violence.” 18 U.S.C. § 924(c)(3)(A) defines a “crime of violence” as one that is a felony and “has as an element the use, attempted use, or threatened use of physical force against the person or property of another.”

While this statute can be easily applied in cases involving overt violence, there is a significant circuit conflict on how to apply the use-of-force language from 18 U.S.C. § 924(c)(3)(A) to offenses involving a defendant’s inaction. Eight circuits have held that any crime that requires proof of death or bodily injury categorically involves the use of physical force, and so includes crimes of inaction in the “crimes of violence” category. Two circuits have determined that crimes of inaction do not possess the use of force as an element, and therefore are not eligible for sentencing enhancements that accompany the “crime of violence label.”

The Supreme Court has had and maintained a categorical approach to defining “crimes of violence” for a very long time. This categorical approach is the reason that the elements of a crime are examined rather than the defendant’s actual conduct. By dismissing the defendant’s actual conduct as irrelevant and focusing on the elements of the statutory crime, courts can be more consistent in applying

mandatory sentence enhancements. While it is not expected that SCOTUS will alter its long-held categorical approach, this decision could have significant implications for the categorization of crimes of violence, sentence lengths for crimes of inaction, and sentence enhancements for crimes of violence.

Oral arguments for this case are scheduled for November 12<sup>th</sup>.

## UPCOMING TRAININGS



**October 1, 2024, 2:00pm ET – 3:30pm ET / 11:00am PT – 12:30pm PT:**

**Stalking & Intimate Partner Violence**

*Presented by: [Stalking Prevention, Awareness, & Resource Center \(SPARC\)](#) of [AEquitas](#)*

Nearly half of stalking offenders are current or former intimate partners. All stalkers can be dangerous, but current/former intimate partners are generally more threatening, violent, and interfering than other stalkers and may stalk their victims before, during, and/or after the relationship. It is important to identify stalking separate from and in addition to concurring intimate partner violence. In honor of Domestic Violence Awareness Month (DVAM) in October, this webinar highlights the significant connections between stalking and intimate partner violence.

[Register Here](#)

This webinar is supported by Grant No. 15JOVW-22-GK-03986-MUMU awarded by the Office on Violence Against Women, U.S.

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**October 10, 2024, 2:00pm ET – 3:00pm ET / 11:00am PT – 12:00pm PT:**  
**Prosecution Community of Practice (PCoP) Quarterly Webinar: Crypto Crime**

*Presented by: [National Public Safety Partnership](#)*

Please join the National Public Safety Partnership on **October 10, 2024, 2:00 – 3:00pm ET / 11:00am PT – 12:00pm PT** for our quarterly PCoP webinar. With rapid innovations in technology, crypto crime continues to pose unique challenges for law enforcement and prosecutors alike. During this webinar, Santa Clara County, CA Deputy District Attorney Erin West will talk about how she won the battle against crypto scammers. Even if your department does not have a cybercrime unit, you are encouraged to attend to gain an awareness and understanding of these issues that will inevitably affect your jurisdiction.



**Please be sure to register by October 9, 2024, 5:00pm ET.** Once registered, you will receive a confirmation email with the zoom meeting details.

[Register Here](#)



**Legal Jiu-Jitsu**  
**Combatting Witness Intimidation in**  
**Human Trafficking Cases**

October 15, 2024  
2:00-3:30 PM Eastern  
Register at [AEquitasresource.org/trainings](https://aequitasresource.org/trainings)



**October 15, 2024, 2:00pm ET – 3:30pm ET / 11:00am PT – 12:30pm PT:**  
**Legal Jiu-Jitsu: Combatting Witness Intimidation in Human Trafficking Cases**

Human trafficking often morphs into witness intimidation once investigations and prosecutions are initiated. In collaboration with law enforcement and victim



services, prosecutors can both support victim participation and identify evidence that can be used against traffickers to strengthen cases of sex and labor trafficking. This presentation adheres to the core philosophy of jiu-jitsu which is to use the opponent's force against themselves. When combatting witness intimidation in tandem with human trafficking, prosecutors and law enforcement can take one of the most pervasive tools used by traffickers to quiet their victims to instead, bring the victim's voice into court via forfeiture by wrongdoing. The presenter will discuss strategies to protect victims and strategies to bring their voices into the courtroom when traffickers have relied on witness intimidation to prevent them from testifying.

At the conclusion of the presentation, participants will be better able to:

- Support victim participation in sex and labor trafficking cases
- Minimize and respond to witness intimidation
- Litigate the admission of statements under forfeiture by wrongdoing

[Register Here](#)

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**October 28, 2024, 2:00pm ET – 3:30pm ET / 11:00am PT – 12:30pm PT:  
Beyond Intimate Partner Stalking: Acquaintance, Stranger, and Family  
Offenders**

*Presented by: [Stalking Prevention, Awareness, & Resource Center \(SPARC\)](#) of [AEquitas](#)*

About half of stalking cases are perpetrated by current or former intimate partners – which means half are not. Even when the stalking is not related to domestic violence, the response to stalking is typically housed under domestic violence or rape crisis services. Do you serve all victims of stalking – even when offenders are friends, acquaintances, family members, or strangers? This webinar explores the prevalence and dynamics of non-intimate partner stalkers, including strategies to assess risk

and plan for victim safety.

[Register Here](#)

This webinar is supported by Grant No. 15JOVW-22-GK-03986-MUMU awarded by the Office on Violence Against Women, U.S.

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## **Law Enforcement-Based Victim Services 2025 Webinar Series**

*Presented by: [Justice Clearinghouse](#)*

Law enforcement agencies can hire victim services personnel to help crime victims stay engaged in the investigative process and navigate multiple complex systems to meet their needs. Join Justice Clearinghouse to discuss practical strategies to enhance victim services in your agency!

- **Part 1, Tuesday, March 11, 2025, 1:00pm EST – Considerations for Recruitment and Retention of VSU Personnel:** Securing and retaining qualified and suitable law enforcement-based victim services personnel are essential components of effective agency responses to victims and co-victims of crime.
- **Part 2, Tuesday, April 22, 2025, 1:00pm EST – Incorporating Interns and Volunteers into VSU Responsibilities:** Effective incorporation of interns and volunteers can positively contribute to VSU responsibilities and relies on assignment of suitable tasks, understanding of risks and liabilities, and active oversight that aligns with agency standards.
- **Part 3, Thursday, May 22, 2025, 1:00pm EST – VSU Supervision Considerations and Strategies:** The direct supervisor of the VSU is critical to effective services to victims and co-victims, efficient operational decisions, and comprehensive planning for VSU expansion.
- **Part 4, Thursday, June 26, 2025, 1:00pm EST – Developing Policies for Effective Response to Victims and Co-Victims:** Written guidance that is founded on ethical standards is a key component of managing professional conduct related to assigned responsibilities that can support victim-centered, trauma-informed, and culturally sensitive practices and long-term VSU sustainability.
- **Part 5, Thursday, July 31, 2025, 1:00pm EST – Practical Access to Victims' Rights:** Ensuring practical access to victims' rights during law enforcement contact can be an effective gateway to meeting the unique needs of victims and co-victims.
- **Part 6, Thursday, August 28, 2025, 1:00pm EST – VSU Response to Victims and Co-Victims of Violent Crime:** Law enforcement-based victim services personnel often represent the most effective response to address the rights and needs of victims and co-victims of violent crime – many violent victimizations involve non-intimate partner relationships between victims/co-

victims and offenders and a small percentage of victims and co-victims currently receive assistance from victim services providers.

[Register Here](#)

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## FUNDING OPPORTUNITIES

### [BJA FY24 Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program–State Solicitation](#)

With this solicitation, the Bureau of Justice Assistance (BJA) seeks applications for formula funding to, in general, provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings to states to support a range of program areas. This solicitation is only for state formula funds. Applications are due **October 10, 2024 (Grants.gov)** and **October 17, 2024 (JustGrants)**.

### [BJA FY24 Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program–Local Solicitation](#)

With this solicitation, the Bureau of Justice Assistance seeks applications for formula funding to provide additional personnel and/or purchase equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings. This solicitation is only for local formula funds. Applications are due **October 16, 2024 (Grants.gov)** and **October 22, 2024 (JustGrants)**.

For more available funding opportunities, please visit [grants.gov](https://grants.gov).



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