



WATCH Post

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STRANGULATION LEGISLATION NEEDED

Potentially lethal assaults should have serious consequences

The Minnesota Coalition for Battered Women

Last summer, Alyson Olsen, a 21-year-old college student in St. Cloud, was brutally attacked by her boyfriend. During the assault, the boyfriend knocked her unconscious and later strangled her with his hands and a telephone cord. The police officer responding to a neighbor's 911 call reported hearing the man shout, "Do you want death? Do you want death? 'Cause I'll give it to you!" and witnessed him strangling her. Despite the fact that Alyson's injuries were severe enough to hospitalize her, the boyfriend was only charged with misdemeanor domestic assault and felony terroristic threats. Later, the assault charges were dropped, even though police witnessed the strangulation. Clearly, change is needed when domestic strangulation is frequently charged as a misdemeanor offense.

In the 2005 legislative session, the Minnesota Coalition for Battered Women (MCBW) is seeking to enhance the penalties in Minnesota law for domestic violence strangulation. Most non-lethal assaults by strangulation are charged as misdemeanor fifth degree assaults, rather than felony assaults, despite the lethal nature of strangulation and its prevalence in domestic violence. A

felony domestic strangulation law would send the message that this form of assault will be taken seriously and be met with serious consequences.

Research has shown an alarmingly high rate of strangulation in domestic violence. A Battered Women's Justice Project safety and accountability audit of 35 Hennepin County Probation misdemeanor domestic assault cases revealed 10 cases involving strangulation. This corresponds with more widespread studies, including Jacqueline Campbell's 2002 study of intimate partner violence in 12 cities, which found that 10-44% of battered women reported having been strangled by a current or former partner.

Strangulation is a serious and potentially lethal form of domestic violence. Since 1989, at least 41 women in Minnesota have been strangled to death in cases where the suspected, alleged, or convicted perpetrator was a family/household member or intimate partner. In addition, in the same period, at least 26 children under the age of 18 have been strangled to death in cases where the suspected, alleged, or convicted perpetrator was a parent, caregiver, or family member. *More than seven times* as many women and children in Minnesota since 1989 have been strangled to death by an intimate partner, family member, or caregiver, than by an acquaintance, stranger, or

unknown perpetrator. In just the first three months of 2005, two of the three women murdered in Minnesota by intimate partners were strangled.

Susan Gaertner, Ramsey County Attorney, recently stated in an editorial for the *St. Paul Pioneer Press*, "In domestic assault situations, strangulation is one of the scariest and most effective ways an abuser can exercise power and control over a victim. A person who has his hands around a victim's neck is looking straight into her eyes and watching her come within a hair of dying or—in far too many cases—watching her actually die. 'Look at the power and control I exercise over you,' the assailant is saying to his victim. 'I decide whether you live or die.'"

Victims of domestic strangulation are at a high risk of severe, ongoing partner abuse. In addition, an abuser who

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The mission of WATCH is to make the justice system more effective and responsive in handling cases of violence, particularly against women and children, and to create a more informed and involved public.

Problem of repeat sex offenders goes deeper than sentencing

By Marna Anderson

Minnesota state legislators are discussing a sex offender bill that allocates \$100 million in funding to cover what can be categorized as post-conviction expenses, e.g., the prison, supervision, and treatment costs that will result if longer sentences are approved. Meanwhile, barriers to successful convictions go unaddressed and sexual assault victims still face the daunting task of navigating through a legal system that is too often unable to hold perpetrators accountable.

As WATCH knows from the thousands of cases we monitor each year, the failure to hold offenders accountable occurs long before sentencing. At any step along the way, be it the initial report, police investigation, charging by the city or county attorney's office, bail hearing, or at any of a multitude of pretrial hearings, an offender can get the message that violence against women and children in our society is and will be tolerated.

Consider this: last month a man who had worked as a teacher's aide at Agape Day Care in Minneapolis was accused of raping a six-year old boy there in the summer of 2004. He was arrested and charged with two counts of first degree criminal sexual conduct. The Hennepin County Attorney's Office requested a bail of \$75,000. The presiding judge in felony arraignment court, retired Judge Bruce Hartigan, conditionally released the defendant with no bail.

In another case, a seventeen-year old victim reported to the police that her uncle (with whom she was living) raped her and threatened to kill her if she

talked about what happened. The defendant was charged with two counts of third degree criminal sexual conduct. Within a month of the court finding probable cause, the defense attorney made a motion to release all "relevant" information regarding the victim's truancy and juvenile court records to be used in the trial. DNA testing was delayed and six months after the police report was made the case was dismissed. The defendant had a lengthy criminal record in Hennepin County prior to this charge, including five misdemeanor assault charges; three gross misdemeanor assault charges; one felony assault charge; and four burglary charges. Since this criminal sexual conduct charge, he has had one misdemeanor violation of a no contact order charge.

In yet another example, a man standing naked on Hwy. 100 was picked up by the police and taken to Hennepin County Medical Center for a psychological evaluation in late 1998. While in the hospital, he told the medical staff that he had sexually abused his four-year old daughter. The records indicate that the Richfield Police "found no evidence of the abuse." The man was released from the hospital after seventy-two hours and he returned home; he continued to rape his daughter for six more years before another report was made which resulted in prosecution. The defendant admitted his guilt and expressed remorse for his crimes. Judge Kevin Burke sentenced him to 130 months, in line with Minnesota's Sentencing Guidelines.

The chronology of Charles Edward Kennedy in this issue provides further evidence that dealing effectively with

sex offenders requires a much more comprehensive approach.

I appreciate Governor Pawlenty's attempt to keep the public safe from sexual violence, but he is missing the boat by focusing solely on increased sentencing, tracking and treatment. Statistics from the U.S. Department of Justice reveal that only 39% of sexual assaults are reported to the police. Arrests are made in 51% of those cases, and about 80% of those arrests result in prosecution. If there is prosecution, there is a 58% chance of a conviction. So, when all is said and done, of the 39% of sexual assaults reported to police, there is only a 16% chance the offender will spend time in prison. Increasing prison sentences may make the public feel safer, but it does not address the obstacles women face in the criminal justice system, many of which prevent women from ever making reports. Current proposals do not address the salient issues in the cases cited here, for example, release without bail, delay in collecting important DNA evidence, victim-blaming defense tactics, and inadequate mental health follow up.

In addition, indeterminate and life in prison sentencing could further deter some women from making reports to the police. Most sex offenders assault women they know — their girlfriends, daughters, sisters, and wives. Victims may be less inclined to report the crime and testify in court knowing their family member/offender is likely to spend the rest of their life in prison. Additionally, an offender facing possible life in prison is more likely to demand a trial than plead guilty to a lesser charge. Prosecutors and judges need the

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Twenty years, many victims, escalating violence

By Priya Outar and
Dawn Dougherty

In this issue of the *WATCH Post*, we highlight the nearly 20-year criminal history of Charles Edward Kennedy. This chronology details Kennedy's documented record of escalating abuse against at least 13 women and children in his life, with cases and periods of probation often overlapping. His arsenal includes domestic assault, sexual assault, threats of violence, stalking, harassment, and physical and psychological intimidation.

As in many cases of domestic abuse, most of Kennedy's victims were too fearful to come forward or to cooperate with the prosecution after an arrest was made. Multiple victims recanted their stories, which led to no charges or their ultimate dismissal. Kennedy's intimidation of his victims for the charges that remained was relentless. He contacted and threatened victims, even from jail, kidnapped one victim from her bus stop, assaulted another's young son, and threatened the lives of almost all of his victims and their families.

Kennedy's criminal history also includes multiple sexual assaults against his girlfriends' daughters. In one case, while he was released on bail, he again sexually assaulted the same young victim in her home.

Perhaps most chilling is the increase in the severity of Kennedy's violence over time. In earlier cases, Kennedy inflicted fear through threats, harassment, and property damage. He has slowly progressed to more severe forms of violence, including one of the most lethal—strangulation.

Currently, Kennedy is free on administrative probation. (See sidebar.)

Note: Victims are identified with sequential letters; the same letters signify the same victim. To minimize confusion, the chronology is organized by case and not by date; the cases do overlap, most notably against victims F and G.

Case One: Damage to Property (Misdemeanor), Disorderly Conduct (Misdemeanor)

9/3/87 Minneapolis Police Report: Kennedy "forced his way" into *Victim A's* apartment and began breaking items. Court records suggest that *A's* sister, *Victim B*, was one of Kennedy's ex-girlfriends and that she had recently given birth to their child. *A* reported that Kennedy was trying to "get at" *B's* boyfriend, *Victim C*, with a knife. Because *C* was gone on arrival, Kennedy was not charged with assault.

9/15/87 Outcome: Kennedy pleaded guilty to both counts and was sentenced to serve 10 days in jail by Judge Jonathan Lebedoff.

Case Two: Fifth Degree Domestic Assault (Misdemeanor)

7/14/92 Minneapolis Police Report: *Victim D* reported that Kennedy tried to run her down with his car. After she got out of the way, Kennedy stopped the car and ran after her. He told her he was going to get a gun and kill her.

The victim's brother witnessed the incident.

7/15/92 Arraignment: Kennedy pleaded not guilty before Judge John Stanoch.

8/18/92 Outcome: The assault charge was amended to disorderly conduct, to which Kennedy pleaded guilty. He was sentenced to 60 days in jail with 57 days stayed and credit for three days. Conditions of his probation included no contact with the victim and no same or similar charges. Myron Greenberg was the judge, Julie Rose was the prosecutor and J. Burseth was the defense attorney.

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Administrative Probation

Administrative probation is defined by the Hennepin County Department of Community Corrections as "a level of supervision given probationers who are under formal jurisdiction of the Court, but not under direct supervision."

This lower level of supervision is to be used when an assessment of the offender indicates low risk for reoffending, when a prescreening indicates that the offender does not require services or monitoring, all probationary conditions have been satisfied or the Court orders administrative probation.

Probationers who have a sex offense or domestic abuse conviction can be put on administrative probation only by an order of the Court. ☐

CHRONOLOGY OF AN OFFENDER CONTINUED

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Case Three: Fifth Degree Domestic Assault (Misdemeanor)

4/1/93 Minneapolis Police Report: Kennedy, who had been living with *Victim E* for two months, returned home drunk. *E* did not want him drunk around her children and asked him to leave. Kennedy became violent and said, "I should just kill you now and get it over with." *E* took her children to a friend's apartment nearby. Kennedy followed her, continued to shout death threats through the mail slot, and kicked at the door.

7/20/93 Outcome: The assault charge was amended to disorderly conduct, to which Kennedy pleaded guilty. He was sentenced to 90 days in jail with 80 days stayed. Conditions of his probation included no contact with the victim, no violation of a protective order, and completion of a batterers' program. Lucy Wieland was the judge, Dana Banwer was the prosecutor, and Jerry Patterson was the defense attorney.

Harassment Order One

9/29/94 Harassment Order Petition: *Victim F*, an ex-girlfriend, filed a petition for a harassment order against Kennedy. The petition noted that after she broke up with Kennedy, he threatened, "to sneak on" and "do something" to her and that he "was going to time himself and he would get her."

10/12/94 Outcome: *F* was not present for the initial hearing, and the petition was dismissed by Referee Paul Gilles.

Case Four: Fifth Degree Domestic Assault (Misdemeanor)

4/1/95 Minneapolis Police Report: Kennedy began calling *F* names, and she asked Kennedy to leave her apartment. Kennedy asked for her apartment keys so he could "come and go as he pleased." She refused, and Kennedy threw her to the ground. The victim ran from the apartment, but Kennedy ran after her and dragged her back.

4/3/95 Arraignment: Kennedy pleaded not guilty before Judge Daniel Mabley. SIP notes that contact with the victim was allowed.¹

4/21/95 Outcome: The case was dismissed on the motion of the prosecutor. *F* was present and concurred. The judge was Richard Scherer, the prosecutor was James Peterson and Kennedy represented himself.

Harassment Order Two

6/14/95 Harassment Order Petition: *F* filed another petition for a harassment order. Her petition noted that she and Kennedy had been dating for three years and that "The petitioner has had to call the police hundreds of times in the past year to get the respondent away from her. The petitioner has now been notified that if she calls the police to come to her apartment one more time, she will be evicted."

6/28/95 Outcome: *F* was not present for the initial hearing, and the petition was dismissed by Referee May Lawson.

¹ SIP stands for 'subject in process.' It is the Hennepin County criminal justice database.

Case Five: Fifth Degree Domestic Assault (Misdemeanor), Damage to Property (Misdemeanor)

1/5/96 Minneapolis Police Report: Kennedy tried to enter *F*'s house through the door and the windows, but she refused to let him in. Kennedy then punched through a glass window on the front door. Fearing for her own and her children's safety, she called 911.

1/8/96 Arraignment: Kennedy pleaded not guilty to fifth degree domestic assault before Judge Roberta Levy.

9/30/96 Outcome: Both charges were dismissed on the motion of the prosecutor. Beryl Nord was the judge, and Kennedy represented himself.

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VOLUNTEER NOTES

WATCH trained 20 new volunteers in late January. The following observations are drawn from their first two months of monitoring.

✍ This was my first monitoring experience, and it seemed that all five order for protection (OFP) hearings moved very slowly. The judge got sidetracked numerous times and never made any definitive judgments, except when he dismissed a case because the petitioner was not present, when, in fact, she was. After they realized she was there, they said they would "change the paperwork" and hold the hearing later that day, an inconvenience to petitioner and respondent alike.

✍ It seems the judge, the petitioner, and the respondent in the OFP hearing are all willing to blame the abusive behavior on "relationship issues" and not the respondent's behavior.

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CHRONOLOGY OF AN OFFENDER CONTINUED

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Case Six: Fifth Degree Domestic Assault (Misdemeanor)

5/3/96 SIP Report: Kennedy was charged with fifth degree domestic assault against *F*.

5/6/96 Arraignment: Kennedy pleaded not guilty before Judge Thomas Wexler.

6/25/96 Outcome: The charge was dismissed on the motion of the prosecutor for insufficient evidence. Kevin Burke was the judge.

Case Seven: First Degree Criminal Sexual Conduct (Felony), Third Degree Criminal Sexual Conduct (Felony)

4/29/95 Minneapolis Police Report: Kennedy, who was living with his girlfriend, raped her 13-year-old daughter, *Victim G* who was sleeping in her room with her baby brother, Kennedy's biological son, at the time of the assault. Kennedy went to *G*'s bedroom and told her to find another place for the baby. He then raped her on the floor.

5/18/95 SIP Report: Judge Herbert Lefler was notified that Kennedy was trying to contact *G* from jail.

5/19/95 Recantation: *G* recanted her story claiming that she was under pressure at home, wanted Kennedy out of the house, and that the semen on her clothing came from another man.

6/7/95 Probable Cause Pretrial: Kennedy pleaded not guilty to both

charges before Judge John Sommerville. The prosecution motioned for collection of DNA samples.

9/7/95 SIP Report: Child protection notified the criminal court that Kennedy, then released, was in contact with *G*.

9/8/95 Court Records: *G* told a police detective that she lied about the semen coming from another man.

11/27/95 Plea Bargain: WATCH volunteer notes state that the prosecution offered Kennedy the following plea bargain for **Case Seven**: if he pleaded guilty, he could be sentenced to a year in jail with work release. The volunteer noted that Kennedy refused the plea bargain and that *G* was present.

Case Eight: Attempted First Degree Criminal Sexual Conduct (Two Felony Counts)

5/31/96 Minneapolis Police Report and Complaint: On 11/1/95, Kennedy, who was once again seeing *G*'s mother, spent the night at their home and assaulted her again. Kennedy entered the victim's bedroom, rubbed her thighs, attempted to penetrate her digitally, and offered her money for sex. *G* told her mother about the incident the next day, and Kennedy was kicked out of their home. This assault was not reported until 5/31/96.

6/3/96 Spriegl Evidence²: The prosecution moved to admit Kennedy's past sexual assaults from 1991 and 1992 into evidence for **Case Seven**. The victim of the 1991 assault, *Victim H*, was the 14-year-old daughter of Kennedy's girlfriend at that time. In *H*'s


² Evidence of prior bad acts.

home, Kennedy tried to take her shirt off and told her, "If you don't have sex with me I'm going to kick you out." The victim of the 1992 assault, *Victim I*, was sleeping in a motel room with five other people. The victim felt someone on top of her, saw it was Kennedy, and told him to get off of her. He raped her instead.

6/17/96 Jury Trial: The jury trial for **Case Seven** with **Case Eight** offered as Spriegl evidence began before Judge David Duffy. The charges had been amended to Attempted First Degree Criminal Sexual Conduct (two felony counts) and Third Degree Criminal Sexual Conduct.

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THUMBS UP/ THUMBS DOWN

 Thumbs up to Rep. Carolyn Maloney, D-N.Y., Rep. James Leach, R-IA and Sen. Edward Kennedy, D-MA for persevering in pursuit of women's equality by reintroducing the Equal Rights Amendment (ERA) in Congress. The ERA, first proposed in 1923, was re-introduced every year for 49 years before its passage in 1972. It was then ratified by 35 of the required 38 states before the 1982 ratification deadline. The bill was introduced again in 1982, and has been re-introduced every year since.

According to a recent survey, 96% of American adults believe that men and women should have equal rights, and most Americans (72%) mistakenly think that gender equality is *already* guaranteed in the Constitution. It's time Congress catches up with the rest of the country and recognizes the constitutional rights of half its citizenry.

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STRANGULATION LEGISLATION NEEDED CONT'D.

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perpetrates an assault as intimate and lethal as strangulation is highly likely to commit murder. Two recent cases underline this point. In the first, Sheng Vang of St. Paul was strangled by her ex-husband five months before he allegedly stabbed her to death in July 2004. In the second, Casandra Current of Minneapolis, her mother, and her step-grandfather were stabbed to death by her boyfriend in September 2004. A police report describes a September 1, 2004, incident in which Bryant Jones, her alleged murderer, "put his hands around her throat attempting to strangle her."

Studies have shown that medical personnel, police, and prosecutors often overlook strangulation symptoms and instead focus on visible injuries because they don't know what to look for and/or what questions to ask. Adding a specific law regarding domestic strangulation would not only give police and prosecutors a specific charge to use in strangulation cases, but would also provide an impetus for the professionals involved in these cases to be trained in investigating and detecting evidence of strangulation.

Legislation sponsored by MCBW was introduced in the Minnesota Senate and House of Representatives to make domestic strangulation a felony punishable by up to five years in prison and/or a fine of up to \$10,000. In the House, HF 963 passed the Public Safety Policy and Finance Committee and has been referred to the Ways and Means Committee. The Senate bill, SF 934, was amended from its original text in the Crime Prevention and Public

Safety Committee to expand the third degree assault statute to include the crime of strangulation, which would make all strangulation, domestic violence-related and not, a felony offense. The amended bill has been referred to the Finance Committee.

MCBW believes that the House version of a separate and distinct domestic strangulation statute is necessary for several reasons. Strangulation is a form of assault used far more commonly by *domestic* abusers than in stranger assaults. Though strangulation is all too common in domestic violence, more often than not it remains undetected by police and medical personnel who have not been trained in its nuances. With a specific statute on which they have been trained, these first responders will learn to ask the relevant questions and seek the less obvious but still manifest physical signs of strangulation. Finally, recognizing the potential of the abuser to kill his victim, judges will be motivated to invoke and police to enforce the firearms prohibition that accompanies all domestic-related and felony convictions.

In January of this year, Alyson Olsen publicly told her story for the first time at an informational hearing of the House Public Safety Finance Committee. She has since testified at a hearing of the Senate Crime Prevention and Public Safety Committee and spoken at MCBW's Violence Against Women Action Day Rally at the Capitol. Her former boyfriend attempted to silence her by strangling her, but Alyson survived and is speaking out to make sure that other victims do not have to experience similar fear, pain, and frustration. ☐

Staff changes

WATCH's office manager Emily Saunoi-Sandgren accepted a position at Growth & Justice and ended her time with WATCH in February.

Taking her place is Shahidah Maayif, who joined our staff on April 18.

A big thank you to Emily for her work with WATCH and a big welcome to Shahidah! ☐

Correction

The Winter 2005 issue of the *WATCH Post* contained a case summary of defendant Kofi Yeboah's recent involvement in the criminal justice system. We printed that Yeboah had been found guilty of third degree criminal sexual conduct for raping and physically assaulting a woman he met in a club in a third trial following two mistrials. In fact, multiple charges involving the same victim were handled in different trials. The first two trials, which ended in mistrials, were for first degree criminal sexual conduct, third degree criminal sexual conduct, and kidnapping. A separate trial was held for another count of third degree criminal sexual conduct, at which Yeboah was found guilty. For the third trial, John Holahan was the judge, Martha Holton-Dimick was the prosecutor, and Larry Reed was the defense attorney. ☐

FROM THE EXECUTIVE DIRECTOR CONTINUED

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option of plea bargains as leverage if going to trial is unlikely to result in sanctions.

So what else could the legislators focus on? Necessary actions could include:

- strengthening rape shield laws that protect women from victim-blaming tactics used in trials (if you doubt that such protections are necessary, read up on the Kobe Bryant case);
- ensuring adequate funding and training for law enforcement so that

sex crimes are thoroughly investigated and result in defendants being charged with crimes commensurate with their actions (if you doubt this is a problem, check into the restructuring at the Minneapolis Police Department in 2004 that reduced by 40% the number of officers dedicated to investigating sex crimes);

- restoring sexual assault victim services funds which were cut by 46% between 2001 and 2005 and;
- funding sexual violence prevention and education. Prevention and education, topics on the back burner in the Governor's plan, would help us to

create a society that no longer discredits and blames victims.

Increased sentences for repeat sex offenders have their place in keeping the public safe. But we need more. We need to create a justice system that works for victims. We should have a system that stays out of a victim's juvenile records or psychological profile. We should have a system that prosecutes sex offenses without relying solely on the victim's testimony. And we should have a system that deals appropriately with offenders early on, rather than waiting to sentence them to life in prison. ☐

VOLUNTEER NOTES CONTINUED

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✍️ The judge was issuing a sentence for terroristic threats. The prison sentence was stayed for three years and conditions were set. When it came to the issue of *no contact*, confusion reigned until the judge said at last, "Oh yeah, there was a request for that." The judge, however, did not explain the *no contact* order. Overall, it seemed like the most important condition—to stay away from the victim—was merely an afterthought.

✍️ I had a hard time hearing everyone in felony arraignment court. They all need to speak louder.

✍️ The judge in domestic violence court today was impressive for her courtesy to all parties and her patience in articulating the exact meaning of a *no contact* order. In one case, the defendant's first language was not

English, and the clear explanation showed the judge's concern for protecting the victim, a vulnerable adult.

✍️ The judge in domestic violence court today showed heightened concern and made *no contact* terms very explicit in the strangulation cases.

✍️ As a new volunteer, I found the OFP proceedings hard to follow. There was too much legal jargon. For example, the judicial officer used the term "a preponderance of the evidence" in every hearing without explaining what that means.

✍️ The defendant was charged with felony terroristic threats. The judge conditionally released him and ordered no contact with the victim "until this matter is resolved...then you two can get back at each other's throats." ☐

Volunteers needed

Join a dynamic organization working to improve the justice system. Monitor court hearings, participate in special projects, and lend your skills to social change.

The next WATCH volunteer training will be held in Minneapolis on June 7 and 9 from 6 to 9 p.m.

For more information, contact Dawn at (612) 341-2747, ddougherty@watchmn.org, or go to www.watchmn.org, where you can also complete a volunteer application. ☐

CHRONOLOGY OF AN OFFENDER CONTINUED

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6/26/96 Competency Evaluation: Judge Duffy ordered a competency evaluation and found Kennedy incompetent to proceed. Criminal proceedings were suspended and the jury disbanded.

10/3/96 Jury Trial: A new jury trial began for **Case Seven** before Judge Robert Lynn. When on the witness stand, Kennedy attempted to explain the presence of his semen on *G's* shorts by stating that everyone living in the home wore each other's clothing.

10/16/96 Verdict: The jury found Kennedy guilty of two counts of attempted first degree criminal sexual conduct in **Case Seven**.

11/6/96 Case Eight Outcome: The charges were dismissed on the motion of the prosecutor. Robert Lynn was the judge, Carla Hagen was the prosecutor, and John Lucas was the defense attorney.

11/6/96 Case Seven Outcome: Judge Robert Lynn sentenced Kennedy to serve 43 months in prison with credit for 153 days. The third degree criminal sexual conduct charge was dismissed. Carla Hagen was the prosecutor, and John Lucas was the defense attorney.

12/97 Appellate Court Reversal: The Minnesota Court of Appeals reversed the conviction and granted a new trial, holding that the district court abused its discretion by admitting evidence of **Case Eight**.

11/5/98 Supreme Court Reversal: The Minnesota Supreme Court reversed the decision of the Court of Appeals and reinstated the judgment and sentence of the district court.

Case Nine: Fifth Degree Domestic Assault (Four Misdemeanor Counts), Disorderly Conduct (Misdemeanor)

1/10/01 Minneapolis Police Report: Kennedy, who married after getting out of prison, assaulted his by then estranged wife, *Victim J*, and her 11-year-old son, *Victim K*. Kennedy went to *J's* house and started pounding on the door and windows. She let him in, they argued, and Kennedy physically assaulted her. When her son intervened, Kennedy punched him in the head and pushed him into a wall. *J* told police that she was afraid of Kennedy and no longer wanted to be involved with him.

1/11/01 Arraignment: Kennedy pleaded not guilty to all charges before Judge Diana Eagon.

1/23/01 Outcome: The prosecution was granted a motion to dismiss the four assault charges, and Kennedy pleaded guilty to disorderly conduct. He was sentenced to 90 days in jail with 76 days stayed and credit for 14 days. Conditions of the sentence included anger management or domestic abuse counseling, no contact with the victim, completion of a substance abuse evaluation, and no same or similar charges. The judge was Andrew Danielson, the prosecutor was Lois Conroy and the defense attorney was Sheila Faulkner.

Case Ten: Fifth Degree Domestic Assault (Misdemeanor)

7/30/01 Minneapolis Police Report: Kennedy broke into the home of his ex-girlfriend, *Victim L*, by kicking in her basement window, tearing off the

screen, and disabling the alarm system. Kennedy and *L* argued and he pushed her. *L* told police that she had ended the relationship and wanted nothing to do with Kennedy.

7/31/01 Arraignment: Kennedy pleaded not guilty before Judge Diana Eagon.

9/27/02 Outcome: The charge was dismissed on the motion of the prosecutor. Lucy Wieland was the judge, Tim Richards was the prosecutor, and Daniel Moreno was the defense attorney.

Case Eleven: Fifth Degree Domestic Assault (Misdemeanor)

8/25/01 SIP Report: Kennedy was charged with fifth degree domestic assault in Brooklyn Park.

8/27/01 Arraignment: Kennedy pleaded not guilty before Judge Lloyd Zimmerman.

10/1/01 Outcome: Kennedy pleaded guilty and was sentenced to 90 days in jail with 55 days stayed. The conditions of the sentence included unsupervised probation and no same or similar charges. His probation for **Case Nine** was also revoked, and as a result, he was ordered to concurrently serve 35 days with 41 days stayed. Conditions for the sentence for revocation included anger management or domestic abuse counseling, no contact with the victim, no mood-altering chemicals, and a chemical dependency evaluation.

The judge was Andrew Danielson, the prosecutor was Roger Fellows, and the defense attorney was Paul Maravigli.

CHRONOLOGY OF AN OFFENDER CONTINUED

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Case Twelve: Fifth Degree Domestic Assault (Two Gross Misdemeanor Counts), Fifth Degree Domestic Assault (Misdemeanor), Disorderly Conduct (Misdemeanor)

4/4/02 Minneapolis Police Report: Kennedy was angry with *Victim M* when he pounded and kicked at her front door, demanding entry. He said, "If I can't get in here tonight, I'm going to f—ing kill you." A guest in the home tried to leave the house, and Kennedy forced his way in. Kennedy and *M* argued and he grabbed her, threw her up against several walls, pushed her over the sink, and began strangling her. *M's* 13-year-old daughter called 911. *M* told police that she feared for her life.

4/11/02 Outcome: Kennedy pleaded guilty to one gross misdemeanor count of fifth degree domestic assault and the remaining charges were dismissed on the motion of the prosecutor. He was sentenced to 290 days in jail with 235 days stayed. Conditions of the sentence included anger management counseling, active probation, and no assault charges. His probation for **Case Eleven** was also revoked, and he was ordered to concurrently serve the remaining 55 days. Conditions for the sentence for revocation included no same or similar charges. Allen Oliesky was the judge, Melissa Johnson was the prosecutor, and Joelle Sather was the defense attorney.

Case Thirteen: First Degree Burglary (Felony), Violation of an Order for Protection (Felony)

8/6/02 Minneapolis Police Report: Kennedy broke into *Victim M's* home by cutting the screen to a basement window. *M*, who had an order for protection against Kennedy, told him to leave. Kennedy tried to run off with *M's* house and car keys. *M* and her daughters managed to get the keys back and left the home to call the police.

8/30/02 Probable Cause Pretrial: Kennedy pleaded not guilty to both charges before Judge Gary Larson.

10/15/02 SIP Report: Kennedy was conditionally released by Judge E. Anne McKinsey. Conditions of his release included no contact with the victim and intensive conditional supervision.

11/12/02 Outcome: *Victim M* did not appear in court despite being served with a subpoena. According to SIP, both charges were dismissed due to "insufficient evidence." Delila Pierce was the judge, Deborah Russell was the prosecutor, and Joelle Sather was the defense attorney.

Case Fourteen: Fifth Degree Assault (Felony), Interference with an Emergency Call (Felony)

11/19/03 Minneapolis Police Report: Kennedy entered ex-girlfriend *Victim N's* house without her permission and she told him to leave. Kennedy became angry and dragged her out of bed and up a flight of stairs. He then ordered her to cook him some food and threatened to stab her with a knife if she did not comply. *N* tried to call 911, but Kennedy unplugged the phone. She fled to another room, where she called 911 again. Kennedy followed

her and began punching her upper torso with a closed fist. She fled again, but Kennedy continued to pursue her throughout the residence and eventually attempted to strangle her. *N* told police that Kennedy had assaulted her many times, but she had not reported the assaults because she feared retaliation from his family.

11/21/03 Arraignment: A WATCH monitor wrote that *N* came forward to say that Kennedy did not assault her and that he did not interfere with any 911 calls. Judge Robert Blaeser presided.

12/12/03 Probable Cause Pretrial: Kennedy pleaded not guilty to both charges before Judge E. Anne McKinsey.

12/23/03 Letter: Kennedy wrote a letter to Judge E. Anne McKinsey in which he stated that he never touched *N* on that night and that the police made the story up. He listed various difficulties that he had experienced in the previous year, said that "lots" on his record was not true, and claimed that he had never done anything to hurt anyone. He also wrote that his pastor supported him.

2/18/04 Jury Trial: A WATCH volunteer noted that *N* said that she only called 911 to get Kennedy to leave the house, that Kennedy did not pull out the phone cord, and that the case should be dismissed. In opening statements, the defense attorney described the case as one about "a woman who made a mistake." Judge Pamela Alexander presided over the trial, Doug Myren was the prosecutor, and Sarah Walter was the defense attorney.

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2/20/04 Outcome: The jury found Kennedy not guilty of both charges.

Case Fifteen: False Imprisonment (Two Felony Counts)

7/21/04 Minneapolis Police Report: Kennedy waited for *N* at her bus stop and forced her into his car. He drove her to his home, where she ran from the car and pounded on a neighbor's door. Kennedy ran after her, tackled her, and carried her into his house. He held her there against her will for several hours, threatening to kill her and her family, make her lose her job, and retaliate if she reported the incident to police. *N* asked to use the phone to check on her seriously ill mother and called 911 instead.

7/23/04: Judge Delila Pierce set bail at \$100,000.

7/27/04: Judge Marilyn Brown Rosenbaum revised bail to \$25,000.

8/16/04 Letter: In a letter to Judge Daniel Mabley, Kennedy reiterated his difficulties over the past year and noted that *N* had a "bad anger problem, too."

10/8/04 Conditional Release: After Judge Stephen Swanson reduced the bail from \$25,000 to \$15,000, Kennedy made bail. Conditions of release included no contact with the victim.

10/11/04 Harassment: Three days after Kennedy made bail and was released, *N* reported a pattern of harassment to Prosecutor Doug Myren.

She expressed dismay that she had not been contacted about Kennedy's release and said that he had called her over fifty times in the previous two days. An investigator in the prosecutor's office reviewed the saved voicemails, which included such threats as "You're gonna regret what you've done," "When I catch you, I'm gonna stick it to your mother f—king ass," and "You can play games if you want to, I'm gonna get up with you." *N* told the prosecutor that she had moved five times in an effort to protect herself and her seven-year old daughter from Kennedy.

10/12/04: *N* testified about Kennedy's phone contact with her after his release, which was then revoked. *N* requested security to accompany her in the hallway and to her car.

10/13/04 Plea: Kennedy pleaded guilty to felony fifth degree domestic assault after the original charge was amended from false imprisonment. The second false imprisonment charge was dismissed on the motion of the prosecutor.

11/29/04 Outcome: Judge Steven Pihlaja sentenced Kennedy to 18 months in prison with credit for 80 days, stayed for three years, and placed him on three years of administrative probation. Conditions of his sentence include no use of controlled substances, no contact with the victim, and no assault charges. Kennedy must also remain law abiding. □

Violence Against Women Act up for reauthorization

The federal Violence Against Women Act (VAWA), signed into law in 1994, is up for reauthorization in 2005. Each reauthorization attempts to build on the prior bill, and tries to increase funding, close gaps and add protections.

The National Task Force to End Sexual and Domestic Violence Against Women is a coalition of over 2000 member organizations that will play an integral role in developing and passing VAWA '05. So will the Sheila Wellstone Institute, the Family Violence Prevention Fund, and individuals and organizations across the country.


VAWA funding has supported expanded services for women victims of sexual and domestic violence. Other initiatives focus on improving the justice system's response by funding coordinated community responses involving law enforcement, prosecutors, advocates, and the courts. The legislation acknowledges historic funding inequities, and specifically increased funds for American Indian women, immigrant women, and other women of color. In addition, major policy initiatives, such as the Full Faith and Credit provision (ensuring enforcement of orders for protection across jurisdictions) created important new safety options for women.


Organizations to contact:

The Minnesota Coalition for Battered Women is organizing for passage of VAWA and can be reached by contacting Lonna or Danielle at 651-646-6177 or visit www.mcbw.org for updates.


THUMBS UP/THUMBS DOWN

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 Thumbs down to **Judge Barry Tatum** of Tennessee for threatening to remove a woman's parental rights because she does not speak English proficiently. The woman, whose daughter was placed in foster care after allegations of neglect, asked the court to arrange counseling. Setting a court date six months away, the judge instead instructed the woman to learn to speak English at a fourth-grade level by that meeting. If she failed, he warned, he would begin the process of termination of parental rights. When her appeal came to the attention of The Southern Poverty Law Center, they offered to represent her without charge, citing the judge's requirement as a gross violation of the Tennessee and U. S. constitutions.

 Thumbs up to **Assistant Minneapolis City Attorney Michelle Jacobson** for creating a database comprised of repeat domestic violence offenders in Minneapolis that police officers can easily access for their investigations. Established in July 2003, the data summarizes prior convictions, as well as all charges and the disposition of previous domestic assault cases. This is important, for once someone has two prior domestic related convictions, any subsequent misdemeanor charges can be enhanced to a felony.

In Minneapolis, as of 12/31/04, this data has resulted in 41 arrests for probable cause felony domestic assault and 73% were charged with felonies.

 Thumbs up to the **United Nations Population Fund (UNFPA)** for urging greater security

and the redesign of international humanitarian assistance to tsunami victims to minimize attacks against women. The UNFPA issued its statement after a Sri Lanka-based women's collective reported "rape, gang rape, molestation, and physical abuse of women and girls in the course of unsupervised rescue operations and while residing in the temporary shelters." UNFPA warned that the fear of sexual violence has restricted the movements of women, who are often responsible for obtaining food, water, and other necessary provisions for their families. And it called for women to be involved in planning and administering relief efforts, for the arrest and prosecution of perpetrators, and for immediate treatment and care for assault victims.

 Thumbs down to former **Attorney General John Ashcroft** for leaving office without deciding the precedent-setting asylum case of Rodi Adali Alvarado Pena. Alvarado endured horrific domestic violence from her husband and was rebuffed in her attempts to seek police and court protection in Guatemala. Fearing for her life, she fled to the U.S. in 1996 and petitioned the government for asylum, which was granted and then overturned. In 2003, Ashcroft removed the case from the Board of Immigration Appeals and announced his intention to decide the case himself. Instead, Ashcroft refused to act, thereby extending her period of limbo as well as that of other victims of gender based violence who seek asylum here. ☐

CHILD WITNESSES

WATCH often monitors criminal cases in which the victim of a sexual assault or other form of violence is a child. WATCH believes that when children take the witness stand, the judge should close the courtroom to everyone not directly involved in that aspect of the hearing. When this does not happen, children may be adversely affected by having to testify in front of strangers or large groups of people.

WATCH recently instituted a policy whereby volunteer monitors will leave the room during children's testimony, when the child is under the age of 13, unless specifically requested to remain in the courtroom by the child's advocate or attorney. We believe this is one way we can lessen the impact on children of being required to testify in court. ☐

CALL TO ACTION CONT.

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To keep up-to-date on the legislation, visit www.vawa2005.org.

To contact the Sheila Wellstone Institute, 651-645-3939 or visit www.wellstone.org/swinstitute.

For the National Task Force, taskforce@legalmomentum.org or (202) 326-0040.

The Founding Fathers campaign was started by the Family Violence Prevention Fund to provide male role models showing that relationship violence is wrong, and to raise awareness about the need to reauthorize VAWA. For more information, call 415-252-8900 or visit www.endabuse.org.

Let your congresspeople know how you stand on VAWA '05. ☐

WATCH

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EYE ON JUSTICE

WATCH is hosting Eye on Justice monitoring sessions to involve community groups in observing court and providing feedback to WATCH about their observations. The Eye on Justice project invites community groups and organizations to participate in special ½ day workshops and court monitoring sessions. Interested community groups attend a morning court session organized by WATCH, and accompanied by WATCH staff and volunteers, and participate in discussions about their observations. Groups that work with women of color and immigrant women are particularly encouraged to participate.

MONITORING TO MAKE A DIFFERENCE

Program sessions include:

- An overview of WATCH and the court monitoring process
- Tour of Hennepin County courts and the opportunity to monitor appearances
- Discussion of the role of court monitoring in creating systems change

Program goals are to help community groups:

- Learn about the criminal justice system
- Learn more about the impact of domestic violence and sexual assault on our community
- Remind the system that *the public is watching*

For more information or to schedule a workshop, contact: Dawn Dougherty (612) 341-2747. ext. 2. ☐

Thank you to Rebecca Kuty for editing and Val Lies for layout of *WATCH Post*.