

# Domestic Violence Felony Sentencing Reform:

Enhanced penalties for repeat/serial domestic violence offenders.



**King County**



# State v. Gary Ruffcorn

- Well known to law enforcement throughout east King County for DV.
- Long DV history: six convictions for Assault four DV, three for violation NCO, and two drug convictions.
- Charged with Assault second degree for brutal assault on his girlfriend.



# State v. Gary Ruffcorn

- His nine misdemeanor DV convictions do not count towards felony “score.”
- His “score” only includes prior drug convictions.
- Result is a sentence range little different than a misdemeanor.



# History

- In 1979 the Legislature passed the Domestic Violence Prevention Act (DVPA) recognizing DV as:  
  
“a serious crime and intended to provide maximum protection from abuse for victims of domestic violence...the official response shall stress the enforcement of laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated.” RCW 10.99.010
- The purpose of the DVPA was not to establish new crimes, but to ensure existing statutes would be fully and equally enforced in DV situations. See Roy v. City of Everett, 118 Wn. 2d 352, 258 (1992).

# History

- In 1984 the Sentencing Reform Act (SRA) took effect: felony sentences determined by “seriousness” of the offense and “offender score” as calculated by the sentencing “grid.”
- Felony DV crimes given the same seriousness ranking as non-DV crimes.
- Prior DV convictions for a felony or misdemeanor valued the same as non-DV convictions.

# SRA Sentencing Grid

TABLE 1  
SENTENCING GRID  
FOR CRIMES COMMITTED AFTER JULY 14, 1999

SERIOUSNESS LEVEL	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
XVI	Life Sentence without Parole/Death Penalty									
XV	23y 4m 240 - 320	24y 4m 250 - 333	25y 4m 261 - 347	26y 4m 271 - 361	27y 4m 281 - 374	28y 4m 291 - 388	30y 4m 312 - 416	32y 10m 338 - 450	36y 370 - 493	40y 411 - 548
XIV	14y 4m 123 - 220	15y 4m 134 - 234	16y 2m 144 - 244	17y 154 - 254	17y 11m 165 - 265	18y 9m 175 - 275	20y 5m 195 - 295	22y 2m 216 - 316	25y 7m 257 - 357	29y 298 - 397
XIII	12y 123 - 164	13y 134 - 175	14y 144 - 192	15y 154 - 205	16y 165 - 219	17y 175 - 233	19y 195 - 260	21y 216 - 288	25y 257 - 342	29y 298 - 397
XII	9y 93 - 123	9y 11m 102 - 135	10y 9m 111 - 147	11y 8m 120 - 160	12y 6m 129 - 171	13y 5m 138 - 184	15y 9m 162 - 216	17y 3m 178 - 236	19y 3m 209 - 277	23y 3m 240 - 318
XI	7y 6m 78 - 102	8y 4m 86 - 114	9y 2m 95 - 125	9y 11m 102 - 136	10y 9m 111 - 147	11y 7m 120 - 158	14y 2m 146 - 194	15y 5m 159 - 211	17y 11m 185 - 245	20y 5m 210 - 280
X	5y 51 - 65	5y 6m 57 - 75	6y 62 - 82	6y 6m 67 - 89	7y 71 - 96	7y 6m 77 - 102	9y 6m 98 - 130	10y 6m 108 - 144	12y 6m 129 - 171	14y 6m 149 - 198
IX	3y 31 - 41	3y 6m 36 - 45	4y 41 - 54	4y 6m 46 - 61	5y 51 - 65	5y 6m 57 - 75	7y 6m 77 - 102	8y 6m 87 - 116	10y 6m 108 - 144	12y 6m 129 - 171
VIII	2y 21 - 27	2y 6m 26 - 34	3y 31 - 41	3y 6m 36 - 48	4y 41 - 54	4y 6m 46 - 61	6y 6m 67 - 89	7y 6m 77 - 102	8y 6m 87 - 116	10y 6m 108 - 144
VII	18m 15 - 20	2y 21 - 27	2y 6m 26 - 34	3y 31 - 41	3y 6m 36 - 48	4y 41 - 54	5y 6m 57 - 75	6y 6m 67 - 89	7y 6m 77 - 102	8y 6m 87 - 116
VI	13m 12+ - 14	18m 15 - 20	2y 21 - 27	2y 6m 26 - 34	3y 31 - 41	3y 6m 36 - 48	4y 6m 46 - 61	5y 6m 57 - 75	6y 6m 67 - 89	7y 6m 77 - 102
V	9m 6 - 12	13m 12+ - 14	15m 15 - 17	18m 15 - 20	2y 2m 22 - 29	3y 2m 33 - 43	4y 41 - 54	5y 51 - 65	6y 62 - 82	7y 72 - 96
IV	6m 3 - 9	9m 6 - 12	13m 12+ - 14	15m 15 - 17	18m 15 - 20	2y 2m 22 - 29	3y 2m 33 - 43	4y 2m 43 - 57	5y 2m 53 - 70	6y 2m 63 - 84
III	2m 1 - 3	5m 3 - 8	8m 4 - 12	11m 9 - 12	14m 12+ - 16	16m 17 - 22	2y 2m 22 - 29	3y 2m 33 - 43	4y 2m 43 - 57	5y 51 - 65
II	0 - 90 Days	4m 2 - 6	6m 3 - 9	8m 4 - 12	13m 12+ - 14	16m 14 - 18	20m 17 - 22	2y 2m 22 - 29	3y 2m 33 - 43	4y 2m 43 - 57
I	0 - 60 Days	0 - 90 Days	3m 2 - 5	4m 2 - 6	5m 3 - 8	8m 4 - 12	13m 12+ - 14	16m 14 - 18	20m 17 - 22	2y 2m 22 - 29

# SRA and DV Sentencing

- The Legislature has amended the SRA in every session, resulting in longer periods of confinement for repeat offenders.
- In 23 years only two amendments for DV crimes. (FVNCO in 2000 and Strangulation in 2007).
- The limited focus on DV has allowed repeat offenders to engage in a pattern of serial domestic violence with little consequence.

# Proposals for Change

- Scoring select class of prior misdemeanor DV history.
- Multiplier for select class of repeat DV felony convictions.
- Plead and prove DV designation.
- Modify Agg. factor for history of DV.

# Serious Domestic Violence

- **Assault 4 Domestic Violence**
- **Violation of a Domestic Violence Court Order**
- **Harassment Domestic Violence**
- **Stalking Domestic Violence select class of prior misdemeanor DV history.**

# State v. Damon Overby

## **A SERIAL ABUSER**

**1990:** Damon Overby convicted of fourth-degree assault after attack on girlfriend.

**1990:** Married Marcie Taysom and had a son two years later.

**1994:** Wife flees to shelter and they divorce the next year.

**1998:** Overby pleads guilty to third-degree assault and two domestic violence-related misdemeanors after assaulting fiancée and two police officers.

**2002:** New girlfriend files for protection order, then withdraws request.

**2003:** Overby convicted of fourth-degree assault after assaulting girlfriend.

**2004:** Overby obtains registered counselor license from the state Department of Health.

**April 2007:** Pleads guilty to fourth-degree assault of girlfriend in Woodinville.

**August 2007:** Pleads guilty to fourth-degree assault of Mountlake Terrace girlfriend the year before.

**February 2008:** Pleads guilty to third-degree assault for choking a girlfriend at Seattle hotel.

Source: Court documents; police reports; interviews

# State v. Damon Overby

- 2007 Assault 4 DV—different victim
- 2006 Assault 4 DV—different victim
- 2003 Assault 4 DV
- 1998 Interfering with reporting DV
- 1998 Assault 4 DV—different victim
- 1997 Assault 3
- 1996 Malicious Mischief 2
- 1995 Assault 2

## II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE (LEVEL III)	1 - 3 months	3 - 8 months	4 - 12 months	9 - 12 months	12+ - 16 months	17 - 22 months	22 - 29 months	33 - 43 months	43 - 57 months	51 - 60* months

# **Domestic Violence Multiplier**

- **Multiply prior convictions for core domestic violence offenses.**
- **Do not multiply prior convictions for Felony Violation NCO (2 priors), or Residential Burglary.**
- **Only multiply those where DV designation was plead and proven.**

# Preliminary look at numbers

- Sample of all open KC felony DV cases.
- Scored cases using new proposal.
- Then scored cases as if we had plead and proven DV for past two years, past four years, and past 6 years.

# Preliminary look at numbers

- At first only impact about 14% of cases assuming every jurisdiction began pleading and proving DV.
- Would slowly rise over 6 years to 30%.
- Large percentage of cases would be completely unaffected by change.

# Offender Score Changes after six years

