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STATEMENT OF CINDY DYER, DIRECTOR OF THE OFFICE ON VIOLENCE
AGAINST WOMEN, ON REACTION TO THE SUPREME COURT'S DECISION IN
GILES V.CALIFORNIA

"A recent Supreme Court decision affects the admissibility of evidence in domestic violence prosecutions when the victim is unable or unwilling to testify as a result of the defendant's wrongful conduct.

The Supreme Court in *Giles v. California* clarified the elements of the forfeiture-by-wrongdoing exception to the Confrontation Clause. The ruling holds that forfeiture applies when a prosecutor shows that the defendant wrongfully caused the victim's absence and did so with the purpose of preventing the victim's testimony or cooperation. This opinion establishes a constitutional minimum for admission of unconfessed prior statements of the victim under the forfeiture-by-wrongdoing doctrine. While the Court rejected the view that merely causing the witness's unavailability was sufficient to establish forfeiture, it offered guidance for inferring the necessary intent in the domestic-violence context. The Court recognized that "[a]cts of domestic violence often are intended to dissuade a victim from resorting to outside help, and include conduct designed to prevent testimony to police officers or cooperation in criminal prosecutions," and that such acts may support an inference of "intent to isolate the victim and to stop her from reporting abuse to the authorities or cooperating with a criminal prosecution—rendering her prior statements admissible under the forfeiture doctrine." Two concurring justices added that "the element of intention would normally be satisfied by the intent inferred on the part of the domestic abuser in the classic abusive relationship."

Domestic violence cases can and must continue to be aggressively pursued, and the forfeiture-by-wrongdoing doctrine is an important tool in these prosecutions. The Office on Violence Against Women (OVW) will collaborate with key partners, experts in the field, law enforcement and others in the criminal justice system to address this new development so that offenders are held accountable."

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