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Investigative Report

February

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The OVA has found, through its investigation a significant gap in services to victims of domestic violence particularly during the arraignment phase of a criminal prosecution.

**Domestic
Violence**

INTRODUCTION

The following report is the result of an intensive investigation including reviewing court documents, police reports, transcripts and interviews of various agencies and individuals by the Office of the Victim Advocate (OVA). The OVA has found, through its investigation, a significant gap in services to victims of domestic violence particularly during the arraignment phase of a criminal prosecution and errors with the Family Violence Education Program. Although there are issues with the West Haven Police Department's dispatcher's communications with their Officers, the West Haven Police Officers' interactions with the victim were, for the most part, appropriate, especially during the initial arrest of the offender. The most significant missteps identified within this report were: the State's Attorney's failure to triage the initial arrest of Selami Ozdemir; the State's Attorney's failure to object to the offender's placement in the Family Violence Education Program; the State's Attorney's failure to keep in contact with the victim; and the State's Attorney's failure to screen the victim and her children for Witness Protection.

In summary, in order to enhance the safety of victims of domestic violence and hold an offender accountable there must be: a prompt arrest; an appropriate in Court triage of domestic violence cases at arraignment; and an appropriate prosecution of a domestic violence offender. In this case the State's Attorney's Office of Milford, CT had the opportunity and tools to respond to Selami Ozdemir's continued violence and refusal to honor the Order of Protection, but failed to do so. The West Haven Police Department, having no available mechanism to hold Selami Ozdemir on the night of the murder, had less than ten minutes to respond and seek protection for Shengyul Rasim and her children. The Milford State's Attorney's Office had four months to secure safety measures, to monitor Selami Ozdemir; respond to his non-compliance with the Court's Order of Protection, to assess Shengyul Rasim's safety, and to consider certification within the Witness Protection Program for Shengyul Rasim and her children.

The following facts were gathered as a result of numerous interviews, transcripts, police reports, court documents and records:

FACTS BEFORE MURDER:

On September 4, 2009, at approximately 9:17am West Haven Police Officers, Bret Schneider and Louis Matteo, responded to 346 Blohm Street, West Haven, Connecticut, for a report of a domestic violence complaint. When the Officers arrived at the location, they spoke with Ms. Jessica Gunem who informed the Officers that her neighbor, Shengyul Rasim (hereinafter referred to as "Rasim"), had come to her home and complained that her husband, Selami Ozdemir (hereinafter referred to as "Ozdemir") had assaulted her. Ms. Gunem informed the Officers that at the time Rasim had come to her home, Rasim had blood coming from her mouth and nose as well as visible red welts on her cheek and eye. According to Ms. Gunem, Rasim told her Ozdemir had assaulted her with his fists and feet making contact with her head and stomach area repeatedly. Ms. Gunem further stated that Rasim was scared and did not want to contact the police but that Ms. Gunem had convinced Rasim to allow her to contact the police.

According to the police reports, Officer Bret Schneider met Rasim and immediately noticed that Rasim had visible physical evidence of having been assaulted. The Officer's report reflected that Rasim "was bleeding from her mouth and nose area and she had visible red marks on her face with some swelling." (Report of Bret Schneider). The Officer further noted that Rasim complained of a headache and stiffness to her neck. As a result, the Officer contacted the West Haven Fire Rescue to evaluate Rasim. Sergeant Jankovsky documented Rasim's injuries through photographing her injuries. Those photographs were later logged into evidence.

Officer Bret Schneider interviewed Rasim at the scene. Rasim informed the Officer that she had a verbal argument with Ozdemir with whom she had a dating relationship. During the argument Ozdemir became violent, hit her in the face with his fists, and kicked her in the head with his feet when she was lying on the ground. She informed the Officers that the argument took place throughout the couple's home, and that at one point Ozdemir pushed her into the crib where her two month old baby was sleeping. She informed the Officers that Ozdemir threatened to kill or hurt her if she reported the beating to the police.

According to Officer Bret Schneider, he had attempted to bring Rasim across the street to her home so that she could be with her two month old baby. When the Officer attempted to cross the street with her, Rasim began to back away from the door and stated, "I do not want to go out there, he is going to kill me, he told me he would have me killed or hurt, he said he knows people and can get it done!"

The West Haven Fire Rescue personnel arrived on scene and informed Rasim that she should be seen at the hospital for possible internal injuries sustained during the assault. She agreed to be transported to Yale New Haven hospital for evaluation. Prior to her departure, Officer Bret Schneider obtained a signed medical waiver from Rasim in order to obtain medical records at a later date for evidentiary purposes.

The Officers charged Ozdemir with: Assault 2nd Degree in violation of C.G.S. § 53a-60; Risk of Injury in violation of C.G.S § 53-21; and Threatening in the 2nd Degree in violation of C.G.S § 53a-62. While transporting Selami Ozdemir to police headquarters, Officer Bret Schneider heard Ozdemir yell from the patrol car window, in a foreign language to Ms. Guman. Officer Bret Schneider asked Ozdemir why he (Ozdemir) yelled at Ms. Guman. Ozdemir responded, "It is none of your business!" Later on, Ms. Guman called the Officer and told him what Ozdemir had yelled to them. She stated that Ozdemir had stated, "I will fuck you guys"! Jessica Guman informed the Officer that she is nine months pregnant and wanted the statement on the record.

Officer Bret Schneider set nonfinancial conditions of release for the protection of Rasim Shengyul which included the following conditions: Ozdemir was to refrain from "imposing any restraint upon the person or liberty of the alleged victim (Rasim), refrain from threatening, harassing, stalking, molesting, sexually assaulting or attacking the alleged victim (Rasim), stay away from the family dwelling, avoid all contact with the victim (Rasim), refrain from possessing dangerous weapons and intoxicant or controlled substances." The home address provided for Rasim on the Conditions of Release was: 341 Blohm Street, West Haven, CT 06516. According to the police report, Officer Bret Schneider contacted Karen Lucid, of the Office of Victim's Services, who informed the Officer she would contact the court and victims services for Rasim.

Ozdemir was ordered to appear in court on Tuesday, September 8, 2009, as Monday September 7, 2009 was a holiday. The West Haven Police Department set Ozdemir Selami's bond at \$50,000.

On September 4, 2011, West Haven Police Officer Matteo, ensuring compliance with the Condition of Release, obtained a consent to search the Rasim and Ozdemir residence and confiscated the following firearms from their residence:

- One Browning arms BDN 9MM Luger Serial# 94-----31 w/ magazine and a brown holster

- One Beretta Model 21A-25Cal Serial # DA-----9 with magazine and a black leather holster.
- One box 9MM 147Gr. Hydra-Shok ammunition.

The confiscated firearms and ammunition were tagged and placed in the West Haven Police Department Gun Locker "D". The West Haven Officers followed up with Rasim and requested that she provide a statement regarding the domestic incident, which she declined.

On or about September 4, 2009, Rasim and her two children sought emergency shelter and were placed in Torrington Connecticut, through the Susan B. Anthony Project shelter. Rasim and her children remained in the shelter for six weeks.

On September 8th, 2009, Ozdemir was transported to GA 22, the Milford Superior Court. The attorney representing the state at the arraignment was Assistant State's Attorney Melanie Cradle. The defendant appeared Pro Se. Judge John Ronan was the presiding Judge.

At the arraignment, the Court issued a full Protective Order on behalf of Rasim. The Protective Order instructed the offender, Ozdemir, to: refrain from "imposing any restraint upon the person or liberty of the alleged victim (Rasim), refrain from threatening, harassing, stalking, molesting, sexually assaulting or attacking the alleged victims (Rasim), stay away from the family dwelling, avoid all contact with the victim (Rasim); the order was extended to provide protection of the two minor children which included a stay away order, a no contact order and an order for Ozdemir to cooperate with the Department of Child and Family (DCF). Despite the reference that Ozdemir to "comply with DCF", no one from the court's Family Relations Unit checked to see if the mandatory reporting to DCF by either the Police or the Victim Advocate was done. In fact, the mandatory referral to DCF was not done.

Once again the home address provided for Rasim on the Order of Protection was: 341 Blohm Street, West Haven, CT 06516. Judge Ronan queried Ozdemir as to whether the police had confiscated the defendant's firearms, to which Ozdemir responded, "Yes." The Court further queried Ozdemir as to whether he had additional firearms, to which he replied, "No". According to Assistant State's Attorney Cradle, Family Relations was "accepting" the case. The defendant was told to "work with them". The case was continued until October 21, 2009.

On September 22, 2009, the Defendant's Attorney, David Avigodr, provided a letter to the West Haven Police Department regarding the surrender of Ozdemir's firearms and his license to carry. In that letter the attorney indicated that the victim was not residing in the home, but rather the offender was residing in the family home. It is unclear from the Protection Order whether the defendant was prohibited from residing in the family home while the victim was not in the home.

On October 21st, 2009, the criminal matter, State v. Ozdemir, was scheduled for modification of the Court's Protective Order and Application for the Family Violence Education Program (FVEP). The prosecutor handling the case was Assistant State's Attorney John Barney and the Judge presiding for the day was Judge Karen Sequino.

Ozdemir's Attorney filed an application for the FVEP along with an Addendum to the application. The Court's Application Form (# JD-FM-97EL Rev. 2-96) includes the following language regarding the nature of the charges against a Defendant and eligibility, including: "I am not charged with a class A, class B, or class C felony or an unclassified felony carrying a term of imprisonment of more than ten years." (Family Violence Education Program Application, Orders and Disposition, JD-FM-97EL Rev. 2-96 C.G.S. 46b-38c.) It should be noted that a Defendant who wishes to be considered for participation into the Family Violence Education Program, must sign this form under penalties of perjury. On October 21, 2009, Ozdemir signed this form under penalties of perjury, swearing that he was not charged with the Class A, B or C felony or an unclassified felony carrying a term of imprisonment of more than ten years. The Addendum filed by Selami Ozdemir's Attorney, was a Motion for Permission for Ozdemir to participate in the FVEP. The language within the Addendum concedes that Ozdemir had been charged with a Class "C" and "D" felony.

According to the official transcript for the Court, the Addendum provided the crux of the defense's argument for "good cause" to waive the statutory restrictions for participation in the FVEP. The Addendum provided in pertinent part:

"I, Attorney David Avigdor, counsel for the undersigned, hereby petition the court to accept said application notwithstanding the various charges involved that fall under the category of being Class "D" and Class "C" felonies.

The Assault 2 Class "D" felony charge came about via a verbal argument that never involved any dangerous instrument or weapon and was never premeditated.

The Risk of Injury charge to a minor Class "C" felony charge never involved any minor child and no child was ever in real danger of injury. In fact the father loves the children and the mother and the children want to return home again as soon as possible.

In light of the above and the agreement of Ozdemir to attend and observe the required Family Violence Education Program classes and requirements, Selami Ozdemir respectfully requests the Court to grant the program notwithstanding the technical preclusions outlined by the statute and clause five of the application."

The Addendum erroneously implies that a successful showing of "good cause" by the defense would result in the defendant's eligibility for the FVEP. This is not the case as the Risk of Injury charge is a complete bar for eligibility for the FVEP since it is a class C felony.

The transcript of October 21, 2009 evidences that the Clerk of the Court did not have the file of State v. Selami Ozdemir in Court. The transcript further illustrates that the Clerk informed Judge Sequino that the file was not in Court. Judge Sequino, nonetheless, proceeded with the State v. Selami Ozdemir matter and did not request the file be brought into Court. From the transcript it is unclear if the Judge is aware of the charges against the defendant and/or the facts and circumstances of the case. The Attorney for Selami Ozdemir informed the Judge that he (the attorney) had filed an application for acceptance in the FVEP on behalf of his client. The Attorney informed the Judge that the defendant is charged with a "Class C and D felony charge" and that his client has had a prior incident which involved anger management. The Attorney informed the Judge further that he has filed an Addendum per instructions from the prosecutor. The Judge does not respond to the defense's arguments and never addresses the "good cause" requirements or the defendant's eligibility on the record. Likewise the prosecutor is also silent as to the issue of "good cause" and to the defendant's eligibility into the FVEP. The Judge simply stated:

The Court will note that and I will leave it up to the Family, as to exactly what that program was, whether it was this program or a different program that would not affect his eligibility, and again, the Court may take that into consideration if the granting program is contested, but certainly you can apply.

Judge Sequino, then, in addressing the defendant's request to modify the full Order of Protection, stated:

The partial order allows contact, but still, only such contacts as is welcome and voluntary. You're together or apart, you just don't fight about it. Any arguments or incident occurs, take a walk. There's to be no threats, violence or harassment of Ms. Rasim. You're not to impose the restraint on her person or liberty, threaten, harass, molest or attack her, stalk her, follow her or wait. As I said, harassment is any repeated unwanted contact or a single offensive contact. So again, you may have only such contact as is welcome and voluntary on both sides.

There was no mention of Rasim's wishes regarding the modification of the protective order nor an inquiry as to whether the victim was in Court to address the modification, by either the Judge or the prosecutor.

Neither the Judge nor the prosecutor seemed to have familiarized themselves with the defense's Addendum, which clearly indicated the victim, Rasim, and her two minor children had been either displaced or kicked out of the familial home and that the defendant, was at the time residing in the familial home. The Addendum indicates that the "mother and the children want to return home again as soon as possible". Despite the Defendant's ineligibility for entry into the FVEP due to the charge of a "C' felony", the Defendant's failure to establish "good cause" for the "D" felony, and the defendant's admission that he was back in the familial home which may have been in violation of the order of protection, the Court granted the defendant's Application for the FVEP.

While at the Susan B. Anthony shelter, Rasim applied for and began receiving public assistance from the Department of Social Services. On or about mid-October 2009, Rasim and her children returned home after learning the Protective Order issued from the Court had been modified by the Court.

The case of State vs. Ozdemir was returned to the Milford Superior Court on November 5, 2009, for determination of eligibility for participation in the FVEP. The prosecutor representing the state was Assistant State's Attorney Melanie Cradle and the Judge for the Court was Judge John Ronan. In addressing the defendant's eligibility for the FVEP, the prosecutor stated:

“Your Honor, per Family Relation’s recommendation. . . .the defendant applied for the Family Violence Education Program. Family did screen him. They did find him eligible. They also sent notice for today. The victim does not have an objection. It was an incident where she ran to a neighbor’s house complaining that she got beat up by her husband. There was blood coming from her mouth and nose area. There was a large welt on her left cheek and eye. Again, he is eligible. There was notice sent and there was no objection.”

Judge Ronan granted Ozdemir the FVEP. According to the official transcripts, there is no mention as to whether the victim was present in Court. Judge Ronan does not address the charge of Risk of Injury which barred the defendant’s eligibility for the FVEP nor does the Judge address the issue of “good cause standard” as it relates to the Charge of Assault 2nd. Similarly, the prosecutor fails to take a position as to the defendant’s ineligibility and does not speak as to whether “good cause” has been established by the Defendant or whether the state supports the Defendant’s motion for the FVEP. Moreover, the record is silent as to when notice was sent to the victim of the Defendant’s request for diversion and what address was used by Family Relations Office to provide notice to the victim since the address for the victim, Ms. Rasim, on the Order of Protection was: 341 Blohm Street, West Haven, CT 06516.¹

In the late evening hours of December 27, 2009, Rasim and her children fled their West Haven home again and were placed in the Domestic Violence Crisis Center emergency shelter in Stamford, CT. Shengyul and her children remained in the shelter until January 5, 2010. During her time at the shelter Rasim expressed concern over her son’s schooling, specifically seeking to have her 5 year old son return to his elementary school located in West Haven, CT. Rasim expressed interest in being placed in a shelter closer to her home in order to assist in finding housing around the West Haven area so that her son could return to his school. According to the records reviewed, Rasim, as an undocumented individual, had

¹ Although State’s Attorney Kevin Lawlor in an Investigative Report on the incident, references communication with Rasim through a translator with the Family Relations Office, the OVA was not provided any documents to verify this information. Furthermore, Kevin Lawlor indicated in his report that the Family Relations Office had informed him that during this one conversation with a translator, that Rasim did not object to the FVEP nor the modification of the protective order. However, it should be noted that victims are told that communication with the Family Relations Officers are not confidential communications and that the Family Relations Officers will share information the victim provides with the defense and the court. As a result of this lack of confidentiality, victims are often less likely to be candid when they communicate with the Family Relations Office. A prosecutor’s reliance on the Family Relations Office’s communications with the victim alone are insufficient to properly screen the victim for her safety concerns and witness protection. Had the prosecutor spoken with the victim herself, additional facts concerning the victim and her safety could have been gleaned and a connection to safety tools could have been provided, such as Witness Protection.

additional difficulties finding housing. Rasim returned to the West Haven home on or about January 5, 2010.

JANUARY 16, 2010 – JANUARY 17, 2010

On January 16, 2010, at 5:26pm, the West Haven Police Department received a call from a juvenile to report his mother was being assaulted by his father. Officers Healey, Stratton IV, and Officer Gado arrived at 341 Blohm Street, West Haven, CT. Upon arriving at the residence the Officers observed Ozdemir in the driveway. Ozdemir stated he did not know why the police were at the residence and that he did not do anything. The Officers went inside the residence and made contact with Rasim and her two young children (an infant and a five year old child). The five year old stated he had called the police.

Rasim told the police she had been sitting on the couch breast feeding the infant. She told the Officers that she and Ozdemir were arguing over a female Rasim believed Ozdemir was involved with, when Ozdemir struck her in the left arm and spit at her. Rasim showed the Officers a small scratch and red mark on her forearm. The Officers did not photograph the scratch as they believed it wouldn't show up in a photograph. Rasim retrieved a cell phone and showed the Officers a photograph of a female and a text the female allegedly sent. The text message was asking Ozdemir if he had struck his wife and if he did, she (the female) would "turn you in".

Ozdemir denied striking Rasim. Nonetheless, he was arrested and charged with Assault 3rd in violation of C.G.S. § 53-61, Disorderly Conduct in violation of C.G.S. § 53a-182 and Risk of Injury to a Minor in violation of C.G.S. § 53-21. Officer Gado performed a NCIC check and learned that there was a protective order ordering Ozdemir Selami to refrain from "threatening, harassing, stalking, assaulting, molesting, sexually assaulting, or attacking" Rasim, and as a result the Police charged Ozdemir with Criminal Violation of a Protective Order in violation of C.G.S. § 53a – 223.

Officer Gado contacted the female who had sent the text messages to Ozdemir's cell phone. She identified herself as Jane Doe (name has been changed) and informed the Officer she was a friend of Ozdemir. She requested that her personal information be concealed from the report as she did not wish Ozdemir to know she had spoken with the police. She told the Officers that Rasim contacted her and informed her that he (Ozdemir) had struck her in the past. Doe further stated Rasim had indicated in a text message that she (Rasim) had planned to leave Ozdemir. Doe was afraid Ozdemir would strike Rasim again if he knew Rasim was going to leave, and so Jane sent Ozdemir the text.

Officer Gado was informed by Officer Stratton IV that there were prior incidents involving the same parties and firearms had been confiscated from the residence in the past. Based on this information, Officer Gado asked Rasim if Ozdemir had firearms or if the seized firearms had been retrieved by Ozdemir. Rasim replied that Ozdemir did not have any firearms and that there were none in the residence.

Once booked and processed, the West Haven Police Department set a bond for Ozdemir at \$25,000.00. The West Haven Police also filed a Family Violence Offense Report, notified DCF through completion of the DCF -136 form and ordered conditions of release.

According to a statement by Rifat Arslam, an acquaintance of Ozdemir's, at or about 9:00 pm Ozdemir contacted Rifat and asked him to bond him out of jail as he had been arrested. Rifat Arslam contacted Bail Bondsman Wilson Reyes, from Porky's Bail Bonds who made arrangements to bond out Ozdemir. Ozdemir was released from custody at 19:56 according to the West Haven Police Department booking sheet.

At 8:47 pm the West Haven Police Department received a call from Wilson Reyes requesting assistance in a "prevent a breach" at 341 Blohm Street, West Haven, CT. According to Wilson Reyes, he had contacted the West Haven Police Department to request assistance for Ozdemir to retrieve his belongings, specifically the keys to his mini van from the familial home. Officer Christopher Stratton IV responded to the residence and found Selami Ozdemir and the Bail Bondsmen at the residence, apparently awaiting the officer's arrival. Ozdemir informed the Officer that he wished to retrieve some of his belongings from the residence, specifically the keys to the green mini van parked in front of the residence. The Officer informed Ozdemir that he was not allowed to speak with Rasim to which Ozdemir agreed. The Officer accompanied Ozdemir into the residence while he gathered his items. The Officer reported that Ozdemir went into the back bedroom, changed his clothes, grabbed socks and a shirt and placed the items in a yellow plastic bag. The Officer reported that Ozdemir remained in his sight at all times. Ozdemir informed the Officer that he was unable to locate the keys for the van. Rasim provided the keys to the van. Ozdemir went outside and the Officer informed Rasim to lock the doors and notify the police if Ozdemir returned. The Officer remained at the residence and watched as Ozdemir get into the minivan and drove away.

STATEMENT OF RIFAT ARSLAM:

At approximately 10:30 pm Rifat Arslam was contacted by an employee of Empire Pizza, the business Ozdemir owned, asking for Rifat to come to the restaurant and calm Ozdemir down. According to Rifat, Ozdemir had been dropped off at Empire Pizza by bail bondsman Wilson Reyes, from "Porky's Bail Bonds". Rifat stated he had gone to Empire Pizza but had to leave to attend to his own restaurant business. According to Rifat he received another telephone call at approximately 2:30 am on January 17, 2010, asking Rifat to return as Ozdemir was now intoxicated and out of control. According to Rifat he closed his business and returned to Empire Pizza where he found Ozdemir who was upset as one of his employees had taken his car keys. Rifat told Ozdemir he would take him to Dunkin Donuts to have coffee, hoping to sober him up. Rifat then put his arm around Ozdemir to see if he had a gun, as he knew Ozdemir carried a gun. According to Rifat, Ozdemir did not have a gun on him and Ozdemir appeared offended that Rifat had checked. Rifat then described that Ozdemir kept getting out of the car and saying he wanted to kiss his sons.

According to Rifat he took Ozdemir to his (Ozdemir's) residence, but Rasim would not allow Ozdemir into the residence. Rifat then transported Ozdemir back to Empire Pizza, where Ozdemir, still upset, went down to his Office. Rifat was outside Empire Pizza when he observed Ozdemir leave the restaurant, get into his van and drive off. According to Rifat, a female employee of Empire Pizza called 911 to inform the police that Ozdemir may be headed home. The female employee was told that Officers were already at the residence.

STATEMENT OF CIGDEM KUCUKAYDIN:

The female employee was later identified as Cigdem Kucukaydin who stated that Ozdemir had called her at 6pm on January 16, 2010 and informed her that he had been arrested and asked her to speak with Rasim. Cigdem went to the residence of Ozdemir and Rasim, but was unable to speak with Rasim. Cigdem then stated that Ozdemir returned to Empire Pizza at 9:30 pm and was acting very sad and talking about wanting to see his sons. According to Cigdem, Ozdemir stayed at Empire Pizza until about 12:00 am, at which time he left and when he went to a Mexican restaurant located next door to Empire Pizza. Ozdemir returned to Empire Pizza at approximately 1:30 am, appeared drunk and became upset when the Empire Pizza employees took his car keys. According to Kucukaydin, at approximately 2:00 am on January 17, 2010 Ozdemir contacted Rifat who came to Empire Pizza and picked Ozdemir up. The two then went to West Haven and returned at approximately 3:15

or 3:30 am. At this time Ozdemir was very angry and still intoxicated. Ozdemir then began hitting himself and slamming his body into the pizza ovens. Ozdemir kept asking "where are my keys" over and over again. Cigdem became frightened and spoke with Rifat who told her there was nothing they could do. Ozdemir suddenly came running out of Empire Pizza, got into his van and left. Cigdem believes Ozdemir must have found a spare set of keys as the keys taken by the employee were still hidden under the garbage can where the Empire Pizza employees had put them. Cigdem knew Ozdemir was going to return to the house so she contacted the police, first calling the New Haven Police Department and then was transferred to the West Haven Police Department. The Dispatcher from West Haven Police Department told her there were police already at the residence.

WEST HAVEN POLICE REPORT:

According to the West Haven Police Report, at approximately 3:30 am on January 17, 2010 Ozdemir returned to the residence located at 341 Blohm Street, West Haven, CT, and began banging on the door. At 3:33am Rasim contacted the police through the 911 emergency line. Officers Stratton IV and Bloom were dispatched to the residence. Approximately three (3) minutes later, the Officers arrived at the residence.

When Officer Stratton IV arrived, he did not notice a green mini van in the driveway. Officer Bloom and Stratton IV knocked on the door and spoke with Rasim who informed the Officers that Ozdemir had been at the residence. She detailed that Ozdemir had knocked on the door and rang the door bell several times and was with an unknown individual. Rasim further informed the police officers that Ozdemir had left the residence while she was on the phone contacting the police. Officer Stratton IV and Bloom searched around the apartment and did not observe Ozdemir in the home. Officer Stratton IV asked Rasim if Ozdemir had keys to the house or another way to gain entrance into the home, to which she replied "no". The Officers instructed Rasim to lock the door and that if Ozdemir returns, she should contact the police. When the Officers left, they heard Rasim locking the door. The two Officers remained at the residence for a "few minutes" prior to leaving the area. According to the MDT, the Officers cleared 341 Blohm Street, at 3:47:08.

According to the West Haven Police Report, at approximately 3:43:45 am a female employee from Empire Pizza contacted the West Haven Police Department to inform the police that Selami Ozdemir was returning to the family residence. The Dispatcher informed the caller that West Haven Officers were at the residence but failed to notify the on-scene Officers that Selami Ozdemir was reportedly returning

to the residence. At approximately 3:47:08 am Officers Stratton IV and Bloom cleared the Blohm Street residence, unaware that Selami Ozdemir was reportedly returning to the residence.

At 3:52 am West Haven Police Department received a 911 call from the Blohm Street residence. Dispatcher Meyer received the call and reportedly heard several voices and loud sounds in the background. Dispatcher Meyer is heard saying on the recorded line, "I don't know what he's doing to her if he's hitting her or if those are gunshots, baby crying. I don't know maybe you should go back there I hear a baby crying". At 3:54:02 Dispatcher Meyer contacted unit 47, Officer Stratton IV, and advised the Officer to return to the residence for an "unknown complaint". The Dispatcher does not mention the possibility of gunshots to the Officers. Officers Stratton IV and Hayward arrived at the 341 Blohm Street, residence at the same time. Officer Stratton IV noticed a green minivan was now parked in the driveway, the same vehicle the Officer had observed Ozdemir driving earlier in the evening. According to Officer Stratton IV the minivan had not been in the driveway when he and Officer Bloom were at the residence approximately 10 to 15 minutes prior. Officer Stratton IV and Hayward proceeded to knock on the front door. The Officers observed the lights on inside the residence. The Officers announced that they were the police and knocked again. There was no response. Officer Stratton informed dispatch that there was no answer and requested dispatch contact the complainant, Rasim, and ask her to open the door. At that time the Dispatcher informed Officer Stratton IV that the dispatcher had an open line and all he could hear was a baby crying and the Officers knocking on the door. At that time Officer Stratton informed dispatch that he and Officer Hayward were going to force entry into the apartment. Officer Stratton IV tried to break down the door but was unable to do so. Officer Hayward and Stratton IV then went to the east side door and were successful in breaking the door lock. The Officers then attempted to gain entry into the stairwell to the second floor apartment but the stairway was blocked by numerous articles of furniture, including a bed frame, rugs and chairs that were pushed up against the door.

Officer Bloom responded to the residence, arriving within minutes of Stratton IV and Hayward, to provide assistance to Officer Hayward and Stratton IV. When Officer Bloom arrived he observed Officers Hayward and Stratton at the east side of the residence attempting to force open the east side door. According to Officer Hayward, the door appeared to be blocked by items behind the door. Officer Bloom proceeded to the front door located on the south side of the residence and attempted to force the door open but was unsuccessful as the front door was steel and swung outward.

Officer Stratton IV and Bloom were able to open the door slightly and then broke the glass on the door, which allowed for Officer Stratton IV to climb over the top of the door and gain entry into the stairwell. Officer Stratton IV was able to clear some items out of the way. Officer Bloom then went back to the east side of the residence where Officers Stratton IV and Hayward were positioned. The two Officers had gained entry into the second floor stairwell and had breached the second floor door entering into the apartment. Officer Hayward proceeded to climb over the door and gained entry into the stairwell. After a few seconds, Officer Bloom heard Officer Stratton IV yelling, "Signal 3" and "GUN". Officers Bloom, Jakubowski and Sgt. Wynosky then entered the second floor residence and observed Rasim and Ozdemir who had both sustained lethal injuries. Ozdemir had a gun under his right leg.

A translated transcript of the last 911 call on January 17, 2010, at 3:53 am, from the residence located at 341 Blohm Street, West Haven, CT was later obtained by Detective Burke of the West Haven Police Department on or about January 29, 2010. According to the 911 transcript the operator asked for the address of the emergency. A male voice asked an "intermittently audible question", and then "opened...just remained...huh? Huh? A female voice then asks, "What are you doing?" The 911 Operator states, "Hello?" The male voice states, "F—k your mother!" The female voice says, "NO!". The male voice then states, "F—k you!"

Additionally it was later learned from a conversation between Kamel Yildiz and Metin Ozdemir, Ozdemir's brother who resides in Turkey, that Ozdemir had contacted his family in Turkey, prior to committing the murder/suicide, and told the family that he was going to kill Rasim and then himself. Metin Ozdemir then contacted Kamel Yildiz at 3:45am on January 17, 2010, asking him to check on his brother.

Once inside the apartment, the Officers located two children. One child was asleep in his room and it was reported that the infant was found in the room with his parents. The West Haven Officers covered the children (to prevent the children from viewing the crime scene) and took them out of the residence.

Detective David Burke was called to respond to the Yale New Haven Hospital. He spoke with the Yale New Haven medical staff and Department of Child and Family (DCF) regarding concern for the children as there was no immediate family members in the United States. Detective Burke further provided the DCF 24 hour Careline with the history of the family, including advising the staff members that the 5 year old had contacted the police earlier in the day to report the father's abuse of

the mother. The Yale New Haven medical staff placed the two brothers in the same room and provided nurses and volunteers to monitor the children while they slept. Toys were supplied and placed in the children's hospital room. The Detective coordinated with the Yale New Haven and DCF staff to discuss the death notification to the children and address concerns for the children's best interest. Detective Burke met with Dr. Morgos, Kathy McRea, Anna Smith of the DCF and the Yale New Haven attending nurse to devise a plan for the death notification. During the discussion, Detective Burke provided a historical overview of the family and advised the Yale New Haven and DCF staff that the children had food restrictions due to their religious beliefs. DCF representatives worked to ensure the children could be placed together in an environment that could appropriately handle their needs due to their respective ages, the trauma the children had been exposed to and the dietary restrictions.

During the meeting there was a consensus that the oldest child should be informed of what had happened and that the Detective was the best person to provide this information to the child as the Detective was in the best position to answer questions that may arise. Dr. Morgos advised Detective Burke to be direct with the child if the child had questions. Detective Burke met with the young boy along with Dr. Morgos, the attending nurse, and Anna Smith. The boy had been playing on the floor, so the Detective joined the child on the floor. The Detective had a conversation with the child, which included that he was aware that his father had hurt his mother in the past, that the police had taken his father away in the past, that the father's guns had been taken, that the boy had personally called the police on January 16, 2010 when his father hurt his mother. The Detective told the child that his father had returned and hurt his mother and himself. The young boy asked about his father hurting his mother, and the Detective told him his mother and father had died. The Detective told the child he was going to stay at a new place with his brother and he could not go home. The child asked about his toys and told the Detective again that he could not have pork or gelatin.

The Yale New Haven Hospital arranged to have a nurse from another location who spoke Turkish to come to the hospital to speak with the young boy as both of his parents were Turkish and spoke Turkish and English. The Detective later met with the boy again with the Turkish speaking nurse. The boy asked for his toys and some clothes to bring to the new home. The Detective informed the boy he would obtain some of his toys and clothes and have them brought to him by Anna Smith (DCF).

Detective Burke went to the residence located at 341 Blohm Street, West Haven, CT. After the scene was processed the Detective gathered clothing and toys from the

home for the children and arranged for Anna Smith (DCF) to collect those items from the West Haven Police Department. Detective Burke also spoke with several leaders from the Community Center Ozdemir frequented and informed them of the processes involving working with the United States and Turkish authorities in regards to the children.

On January 17, 2010 Detective Usha Carr received a telephone call from Mr. Torun Okten. Mr. Okten asked the Detective whether the gun used in the murder/suicide was a Glock handgun. The Detective provided no information to Mr. Okten. At about 11:30am, on the same day, Mr. Torun Okten went to the West Haven Police Department to speak with the Detective. Detective Carr read Mr. Torun Okten his Miranda rights and then proceeded to take Mr. Okten's statement. Okten stated in August of 2009 Ozdemir asked him (Okten) if he could buy a Glock 9 mm handgun. Mr. Okten informed Ozdemir he had a 9mm and allowed Ozdemir to practice with the gun. Mr. Okten observed Ozdemir place the Glock handgun in the office safe of Empire Pizza. After the interview, the Detective reviewed the Departments' Transfer and Sales forms to see if Mr. Okten had documented the transfer of his 9mm handgun. The Detective learned that Mr. Okten did not utilize the legally required form for Sale or Transfers of firearms in accordance with C.G.S. § 29-33. Further, it was later learned that the Glock 9 mm did not have the proper safety precautions such as a gun lock, nor a reusable trigger lock. The Detective also learned that the handgun located at the crime scene involved in the murder/suicide was the same 9 mm registered to Torun Okten. On January 17, 2011 Detective Carr applied for a warrant for the arrest of Torun Okten for the illegal sale or transfer of the Glock handgun.

On January 29, 2010, Detective Carr and several other officers, including officers from Waterbury Police Department (Torun Okten resided in Waterbury), executed an arrest warrant for Torun Okten for the illegal sale or transfer of the handgun used in the murder/suicide. During the execution of the warrant, Detective Carr learned that of the seven guns registered to Torun Okten, only four were in Mr. Okten's possession. Three guns: A Taurus 9 Caliber, a Rossi Amadeo & Co. 38, and a Beretta 25 Caliber, were no longer in his possession. At the time of the report, Torun Oken is currently charged with: one count of violating C.G.S. § 29-33 Illegal transfer of a Pistol/Revolver (Class D Felony) and on the trial list at Milford GA Court #22.

During the investigation the police interviewed a neighbor of Rasim and Ozdemir. The neighbor stated that on the day of the murder suicide she did not hear any arguing or gun shots and only awoke when the police were trying to gain entry into

the apartment. The neighbor did state that the young child had come to the neighbor's residence to talk with her. The neighbor stated that the child had stated months ago that his father was going to kill his mother. As a result, the neighbor showed the child how to contact 911 in case of an emergency.

CRIMINAL HISTORY:

The following is a chronology of Selami Ozdemir's criminal history in Connecticut.

On February 15, 1999, Officers from the New Haven Police Department investigated customer complaints involving threats from Selami Ozdemir, the manager of Ziggy's Pizza. The investigation revealed that Selami Ozdemir became upset when customers ordered "take out food" and began eating the food inside the restaurant. The customers left the establishment in their vehicle, but were followed by Selami Ozdemir who threatened to "shoot" the patrons and brandished a loaded firearm at them. Selami Ozdemir was charged with Reckless Endangerment, Threatening, and Breach of Peace. It appears that Selami Ozdemir was granted accelerated rehabilitation and anger management for these charges. On March 2, 1999, Selami Ozdemir's license to carry firearms and ammunition was revoked. On or about May 17, 2001, Selami Ozdemir's charges were dismissed by the New Haven Court. Selami Ozdemir's firearms permit was reinstated on March 2, 2003.

On April 8, 1999, Selami Ozdemir was arrested and charged with patronizing a prostitute in violation of C.G.S. § 53a - 83.

On January 22, 2009 Selami Ozdemir received a traffic citation for Failure to Obey Control Sign, and a warning for Failure to Carry an Insurance Card and Operating an Unregistered Motor vehicle. On March 18, 2009, the Charge of Failure to Obey a Control Sign was Nulled.

On February 5, 2009, the New Haven Police received a report from a female complainant who stated Selami Ozdemir was harassing her. The female informed the police she had ordered a pizza from Ozdemir's restaurant. She later changed her mind and canceled the order. Ozdemir also contacted the police to report the "incident". No charges were filed against Ozdemir.

On April 30, 2009, the West Haven Police were dispatched to 341 Blohm Street, West Haven CT, for a report of an "Emotionally Disturbed Person". According to the reports, the West Haven Police dispatchers had received a call from AT& T stating that a customer, who was later identified as Ozdemir, informed an AT&T employee

that he was going to kill himself over a high phone bill. The Officers attempted to locate Salami Ozdemir at his residence but he was not at home. The Officers from the West Haven Police Department stood by the residence of Selami Ozdemir until he was located by the Orange Police Department. The Orange police officers made contact with Ozdemir, spoke with him and AT & T employees about the comments made by Ozdemir. The Police Officers informed Ozdemir to refrain from making similar comments in the future. It should be noted the Police could have erred on the side of caution if they had probable cause to believe that Ozdemir posed an imminent risk of injury to himself or others. The process would have entailed the police filing a sworn complaint to the court for a search and seizure warrant pursuant to C.G.S. § 29-38c.

On August 12, 2009, Officer Stratton IV, reported that he was flagged down at 341 Blohm Street, in West Haven, CT, by Rasim at 1:13 am. Rasim informed the Officer that she had had an argument with Ozdemir. She further informed the Police that prior to the Officer's arrival Ozdemir had left to go to work in New Haven, CT. According to Stratton IV, Rasim told him she wanted some time away and she believed Ozdemir would be back in the morning. The Officer informed Rasim that if Ozdemir returned to the residence and should another verbal argument ensue, she should contact the police. She stated she understood. Officer Stratton IV then contacted Selami who did not pick up his cell phone. The Officer left Ozdemir a message to contact the West Haven Police department. It is not clear whether Ozdemir ever contacted the West Haven Police Department in response to the Officer's request.

On September 4, 2009 Ozdemir was charged with Assault 2nd Degree in violation of C.G.S. § 53a-60; Risk of Injury C.G.S § 53-21; and Threatening in the 2nd Degree in violation of C.G.S § 53a- 6.

On January 16, 2010 Selami Ozdemir was charged with Assault 3rd in violation of C.G.S. § 53-61, Disorderly Conduct in violation of C.G.S. § 53a-182 and Risk of Injury to a Minor in violation of C.G.S. § 53-21.

ANALYSIS

In conducting interviews and reviewing numerous documents, it should be noted that the initial investigation on September 9, 2009, by the West Haven Police Department was conducted in an appropriate and zealous manner. Specifically, the Officers who responded to the scene and investigated the assault upon Shengyul Rasim, conducted themselves in a manner that is commendable and as a result, presented a strong case against Selami Ozdemir. The evidence collected by the West Haven Police Officers would have allowed a prosecutor to proceed to trial with or without the victim's participation. The Officers, during their investigation, were able to obtain the following information:

- photographs of the injuries suffered by the victim.
- a signed medical release from the victim which would have allowed the prosecutor to obtain medical records documenting the injuries suffered by Ms. Rasim at a later date. The medical records would have contained admissible evidence as to the injuries suffered by the victim as well as statements as to medical care made by the victim which would have also been admissible. See Business record exception, CT Code of Evidence § 8 – 4; and Statements for the purposes of obtaining medical diagnosis or treatment CT Code of Evidence § 8 – 3 (5).
- documentation of non-verbal evidence from the victim witnessed by the West Haven responding Officer, including notations of visible injuries, demeanor of the victim, and documentation from the Officer's observations that when the Officer attempted to bring the victim back to her home she actively resisted and acted frightened, refusing to go back to the house;
- documented threats observed by the Officers and the neighbor of the victim, made by Ozdemir, while he was being transported in the police cruiser from the scene.
- the Officers accompanied the victim to the hospital and attempted to obtain a written statement from Rasim, but were unsuccessful;
- the Officers were able to document witness statements, including statements made to Jennifer Gunam by Rasim which are admissible as excited utterances.² See. State v. Kirby, 280 Conn. 361, 376-77 (2006);

² Crawford v. Washington, 541 U.S. 36 (2004) stands for the proposition that any any-of-court statement that is "testimonial" in nature is not admissible, unless the declarant is unavailable to testify in court, and the defendant has had a prior opportunity to cross-examine him or her. Testimonial statements are formal declarations, ie. Those made to law enforcement or government personnel. The Crawford Court further

State v. Torelli, 103 Conn. App. 646, 662. See also Davis v. Washington, 547 U.S. 813 (2006); and

- the Officers followed up with consent forms to search the home of Rasim and Ozdemir to confiscate firearms due to the non-financial Conditions of Release.

Furthermore, in the aftermath of the murder, the death notification performed by the West Haven Police Detectives in conjunction with the Yale New Haven medical staff and the Department of Children and Families should likewise be commended. The documents establish that those involved in the death notification worked as a team and for the best interest of the two minor children to deliver the death notification in a manner that would cause the least amount of harm to the children. Moreover, the West Haven Detective involved in the death notification took it upon himself to obtain toys and clothing from the children's house to provide some comfort to them.

Additionally, the internal investigation conducted by the West Haven Police Department and subsequent independent investigation by Glenn Investigations, was thorough and comprehensive. The two investigations identified and addressed nuanced commentary and behaviors by staff of the West Haven Police Department that often goes unnoticed by the law enforcement community. Specifically the behaviors that were identified by Glenn Investigations, and addressed by the Department, involving comments by the Officers, set a high bar for acceptable behavior within the Department as it relates to domestic violence, victim interactions and inter-departmental commentary. By sanctioning these nuanced comments the Department was able to address Departmental attitudes that often go unnoticed or are ignored. Many times in the aftermath of a tragedy, Police Departments can become engaged in defensive or deflective behaviors; this was not the case here.

determined that where non-testimonial statements are involved, the Confrontation Clause allows a court to use its discretion to determine the reliability of the statements. Thus, statements that are "non-testimonial" can still be admissible under local court evidence rules.

It should be noted that both the Connecticut Supreme Court, in State v. Kirby, 280 Conn. 361, 376-77 (2006) and the Connecticut Appellate Court in State v. Torelli, 103 Conn.App. 646, 662,(2007) have held that recordings of 911 telephone calls may be admissible as nontestimonial spontaneous utterances under § 8-3(2) of the Connecticut Code of Evidence. See also Davis v. Washington, 547 U.S. 813 (2006) (holding that hearsay statements made in a 9-1-1 call asking for aid were not "testimonial" in nature and thus their introduction at trial did not violate the Confrontation Clause as defined in Crawford v. Washington).

Pursuant to § 8-3(2) of the Connecticut Code of Evidence hearsay statements, otherwise inadmissible, may be admitted into evidence to prove the truth of the matter asserted therein when (1) the declaration follows a startling occurrence, (2) the declaration refers to that occurrence, (3) the declarant observed the occurrence, and (4) the declaration is made under circumstances that negate the opportunity for deliberation and fabrication by the declarant.

The efforts involved in the investigation of the September 9, 2009 assault, the death notification process and the subsequent West Haven Internal Investigation should not be overlooked.

PROSECUTION OF DOMESTIC VIOLENCE IN CONNECTICUT:

It is common knowledge that the most dangerous time for a victim of domestic violence is when she or he reaches out for assistance and takes steps towards gaining independence from the Offender³. The most common events which heighten danger include, when the victim of domestic violence contacts the police or files for divorce or seeks a restraining order. The state prosecutor's role at this early juncture of a domestic violence case is vital and often the difference between life and death. The analysis of a domestic violence case by a trained prosecutor at arraignment to screen for orders of protection, screening for certification into the state's Witness Protection Program, the appropriateness of the offender's bond and/or conditions of release is crucial and life saving. The absence of a prosecutor to triage a domestic violence criminal matter at arraignment can be fatal.

In Connecticut the State's Attorney, Assistant State's Attorney and Deputy State's Attorney are the lead law enforcement agency within the state. "For nearly 300 years . . . in Connecticut through the Chief State's Attorney, Deputy Chief State's Attorneys and State's Attorneys who, as the officers of the Division of Criminal Justice, are responsible for the investigation and prosecution of all criminal offenses in the State of Connecticut. ⁴. "The Division shall take all steps necessary and proper to prosecute all crimes and offenses against the laws of the state and ordinances, regulations and bylaws of any town, city, borough, district or other municipal corporation or authority." C.G.S.§51-277 (b). In fact, Connecticut General Statutes §51-277 (c) provides that priority should be given to crimes involving physical violence and the possession of a firearm. Under C.G.S. § 51-286(a) the responsibilities of State's Attorneys, Assistant State's Attorneys and Deputy Assistant State's Attorney are clearly spelled out. "Each States' Attorney and Assistant States' Attorney and Deputy Assistant State's Attorney shall diligently inquire after and make appropriate presentment and complaints to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court or in which the court may proceed, whether committed before or after the appointment to his office". Or in other words, each State's Attorney, Assistant State's Attorney and Deputy Assistant State's Attorney has an obligation to make

³ www.ctcadv.org/tabid/200/default.aspx (last visited November 23, 2012).

⁴ <http://www.ct.gov/csao/cwp/view.asp?a=1795&q=285512> (last visited August 18, 2011)

themselves familiar with the cases presented before them, understanding the facts and circumstances of each case, and take appropriate actions to insure the laws of Connecticut are upheld.

In the spring of 1992, the Connecticut Chief State's Attorney, Richard Palmer and the Director of the Family Division of Superior Court, Anthony Salius, entered into a Memorandum of Understanding (MOU) concerning the implementation of the Family Violence Prevention and Response Act. The MOU has never been updated. The MOU spells out the responsibilities of the State's Attorney and the Family Violence Intervention Units. The MOU establishes the types of cases appropriate for the Family Violence Intervention Unit, which mirrors the C.G.S. § 46b-38c.

The availability of the Family Relations Officers to assist with screening these cases is important but should not release the prosecutor from their role as the lead public safety officer. Similarly in cases involving impaired drivers, the court relies on the statements of the Bail Commissions as to whether the offender is eligible for the Alcohol Education Program, but the prosecutor must still determine whether the individual is appropriate for the program through the prosecutor's independent review of the facts and circumstances of the underlying case. The State's Attorneys of Connecticut cannot be absent at the arraignment phase of a domestic violence case and impute their responsibilities for triaging these cases onto the Family Relations Officers.

In this case, as stated above, the West Haven Police Officer's investigation of the September 9, 2009, assault upon Rasim, prepared the prosecutor to take the criminal matter against Salami Ozdemir to trial with or without the victim's participation. Additionally, the Officer's report provided the prosecutors with details from an earlier incident of violence involving the defendant, which placed the prosecutor on notice as to the defendant's threat level. The prosecutors were in a position, which is often rare in domestic violence cases, to proceed with a trial against Selami Ozdemir regardless of the victim's participation level.

The transcripts and Court documents obtained from GA 22 evidence that the prosecutors involved in the Court proceedings of the criminal matter involving Selami Ozdemir, stood mute at arraignment and during vital pretrial hearings. There were no objections to the defendant's application for the Family Violence Education Program, even though the defendant was barred from eligibility. There was no objection to modification of the Protective Order and no outreach on behalf of the prosecutor to the victim to determine whether the order should be modified or to establish the victim's wishes or her current situation.

In reviewing the Court documents, the defense counsel for Selami Ozdemir informed the Court that he (the defense attorney) had communicated with the prosecutor regarding the defendant's application into the Family Violence Education Program and during these communications was advised by the prosecutor to file the Addendum in order to have the defendant participate in the FVEP. Seeing that the prosecutor does not correct the defense attorney in Court, it is clear that the prosecutor was either made aware of the defendant's application for the FVEP before the court proceedings or during the court proceedings, and at no time voiced an objection or concern over the defendant's eligibility. The prosecutor failed to get clarification as to the status of the Protective Order concerning the defendant's ability to reside in the home. At a minimum the prosecutor had a responsibility to (1) object to the defendant's application as the defendant was ineligible and, as to the Assault charge, had not met the "good cause" standard; (2) inquire why the defendant was residing in the familial home; and (3) have contact with the victim to evaluate the victim's understanding of the proceedings, to understand the victim's wishes and to gauge the victim and the children's safety concerns.

The prosecutors, by neglecting to participate in the arraignment and subsequent court hearings and failing to keep up to date information on the status of Rasim and her children's safety, failed in their duties to prosecute the crimes in their jurisdiction as well as honor the victim, Rasim's and her children's state Constitutional rights to be reasonably protected by the offender, Selami Ozdemir. During review of the legislative history which led to the passage of Connecticut's Family Violence Prevention and Response Act of 1986, the statements of Tracey Thurman stood out. On March 3, 1986, Tracey Thurman testified before the Judiciary Committee concerning Substitute House Bill No. 5255, An Act Concerning Family Violence Prevention and Response. In her testimony she described how her husband had been finally arrested and given a conditional discharge. (Family Violence Prevention and Response Act: Joint Standing Committee Hearing on Substitute House Bill No. 5255 before the Judiciary Committee (1986) Testimony of Tracey Thurman, Page 522). She then describes her impression of the system after he was charged:

"No one took it seriously. It did not protect me; it did not help me....no one ever acted like it was his fault; no one ever said he was breaking the law. No one ever acted as if it was him and not me who should have been punished...You have a chance to help the women in this state....The lives of battered women across the state are in your hands. Please help us." *Id.*, Page 522).

Sadly, in this case, Rasim was reluctant to contact the police. When the police were contacted, the court and the prosecutors allowed her to be kicked out of the home, either physically or otherwise, allowed the offender to remain in the familial home despite the full protective order, allowed the offender to participate in a diversionary program that he was ineligible for, which most likely sent a clear message that the Criminal Justice System would not help her. Even though Officer Stratton IV suggested that Rasim could go to a shelter on that fatal night, Rasim, in her experience, most likely, knew going to a shelter was a temporary fix, as Ozdemir would get out again with a slap on the wrist. She may even have felt, as Tracey Thurman had, that no one believed her and that she was the one being punished.

A second key component of this case is that Rasim was from Bulgaria and had also resided in Turkey. Rasim had come to the United States when she was 17 years old with Ozdemir. She was not fluent in English. Often individuals for whom English is a second language are more isolated from the state's resources available to them as crime victims. Additionally, Rasim, the OVA has learned, was part of a cultural community which supported and quite possibly pressured her to return to Ozdemir. This is evidenced by the multitude of threats targeted at her neighbor whose family was repeatedly told to leave the state due to having assisted Rasim in contacting the police in September 2009. For many of these reasons, Rasim, may not have been able to fully navigate the criminal justice system of Connecticut, a process that can be difficult even for those of us who are fluent in English and have knowledge of the criminal justice system. Thus, when she did reach out for help, the prosecutor, who is in Court and has the ability to go over the criminal matter in a more sterile and less crisis driven environment and has the ability and responsibility to ensure the victim is connected with the local and statewide resources and services. The prosecutor has both the responsibility, knowledge and opportunity to connect the victim and her family to the domestic violence advocate and to screen cases for Witness Protection. The prosecutor has the responsibility, knowledge and opportunity to monitor the victim's safety as the case proceeds through the Criminal Justice System. It is the prosecutor who must continue to connect the victim with the appropriate services while monitoring the safety concerns of the victim, especially since many times the victim's safety needs may change or evolve during the court proceedings. Furthermore, the state prosecutor's job description includes these duties, "prepares cases for arraignment, selecting appropriate charges...advises victims of crimes as to their rights and directs them to the appropriate agencies". (Division of Criminal Justice, Deputy Assistant State's Attorney Class Code: 2609 B.U. 54).

Therefore, when assisting victims of domestic violence for whom English is not their first language, the role of the prosecutor is even more vital for it is an opportunity for the State to connect with the individual who may be in need of elevated support and assistance. Many times this population of victims are frightened by our Criminal Justice System. This fear is often compounded by threats by the abuser such as no one will believe the victim or that the victim will be deported or that the offender is omnipotent. These threats by the offender can be dispelled by a prosecutor who can communicate with the victim and assure the victim that the state will in fact protect him or her and honor the victim's state Constitutional right to be reasonably protected from the offender. The prosecutors in Milford did not follow up with Rasim and maintain contact with her and/or the advocate she was working with. As a direct result, the prosecutors were not aware that Rasim and her child had been in a shelter for six weeks in September through mid-October and again sought shelter in late December, returning to the West Haven home only twelve days before the murder. It is clear from the transcripts that the states attorneys involved in the criminal matter against Ozdemir missed important opportunities to provide assistance and connect Rasim and her children to life saving services.

An ancillary issue relates to the charges faced by Torun Okten who provided Ozdemir with the firearm which was used in the murder/suicide. When the police executed the warrant for the arrest of Torun Okten, he was registered with a total of seven firearms. However, he only had four of the seven in his possession. Therefore, it is unclear why Torun Okten was only charged with one count of illegal transfer and not two additional charges of violating C.G.S. § 53-202g, Report of Loss or Theft of Assault Weapon or Other Firearm, specifically the Class C felony. Similarly, and more disturbing, is the unknown location of those two other guns, seeing that one of the guns was already utilized in a murder/suicide.

WITNESS PROTECTION CERTIFICATION & STATE'S ATTORNEY'S ROLE:

In 1999 the state of Connecticut formally created the Leroy Brown, Jr., and Karen Clark Witness Protection Program, through the Office of the Chief State's Attorney. The program requires that for a witness to participate in the program, a State's Attorney must first certify the witness who was involved in a serious felony. The role of the State's Attorney is crucial in obtaining swift safety and protective measures for witnesses of serious felony crimes. Included in this pool of potential witnesses are victims of domestic violence. It is widely known that the most dangerous times for a victim of domestic violence is when he or she first attempts to

gain independence from the abuser⁵, including when the victim leaves the abuser or contacts the law enforcement authorities. The prosecutor's role at arraignment includes triaging cases involving domestic violence and screening to determine whether a witness/victim should be certified for witness protection. This triage is vital to the continued safety of the victim of domestic violence and his or her family.

By statute the only entity capable of certifying a witness into the State's Witness Protection Program is the State's Attorney C.G.S. §54-82t (b). In reviewing this case it is clear that at a minimum, the victim and her children should have been screened for certification for the State's Witness Protection Program. "In any investigation or prosecution of a serious felony offense, the prosecutorial official shall review all witnesses to the offense and may identify any witness as a witness at risk or harm." C.G.S. §54-82t (3) (b). Serious felony is defined as, " any felony that involves the use, attempted use or threatened use of physical force against another person or results in the serious physical injury or death of another person" C.G.S. §54-82t (3). The Witness Protection Program provides services which could include the traditional witness relocation as well as a house alarm, a car alarm, coordinating with the local police for an increase in patrolling of the area near the victim's home, and/or the assistance of an armed guard. The prosecutors failed to screen Rasim and her children for the Witness Protection Certification.

CONNECTICUT JUDICIAL BRANCH FAMILY VIOLENCE INTERVENTION UNITS & THE FAMILY VIOLENCE EDUCATION PROGRAM:

The Family Violence Education Program (FVEP) is a nine (9) week diversionary program offered to defendants who are eligible under the law. The program focuses on educating offenders regarding the impact of violence on relationships.⁶ If a defendant is eligible to participate in the FVEP and that defendant successfully completes the requirements of the FVEP as well as complies with the orders of the Court, the defendant may request that his or her charges be dismissed, by Motion to the Court. The FVEP is governed under C.G.S. §46b -38c(h). Under C.G.S. §46b -38c(h) a defendant who has been charged with a Class "D" felony is not eligible for the FVEP unless and until the defendant can establish good cause for the Court to waive this restriction. Good cause is defined by Black's Law Dictionary as "a legally sufficient reason." Under C.G.S. §46b -38c(h) a defendant charged with a Class "A",

⁵ www.ctadv.org/GetHelp/SafetyPlanning/SafetyAdults/tabid/158/Default.aspx (last visited August 17, 2011).

⁶ Judicial Branch Court Support Services Division Family Services, Family Violence Diversionary and Offender Programs(undated), www.hosuedems.ct.gov/.../Judicial-CSSD_Family_Violence_Program (last visited May 7, 2012).

“B”, and/or “C” felony is ineligible for participation in the FVEP. The charge of Risk of Injury to a Child, C.G.S. 53-21(1)(a), is a Class “C” felony and, as such, the charge serves as a complete bar to the FVEP; Selami Ozdemir, who was charged with C.G.S. § 53a – 60a Assault in the 2nd Degree (a Class D Felony) and Risk of Injury to a Child C.G.S. § 53 – 21 (a Class C Felony), should not have been granted access to the Family FVEP.

The official Family FVEP, C.G.S. § 46b-38c (h) is a diversionary program, available to persons charged with certain family violence crimes, as defined within C.G.S. § 46b-38a.

The court may, in its discretion, invoke such program on motion from the defendant when it finds: (1) That the defendant has not previously been convicted of a family violence crime which occurred on or after October 1, 1986; (2) the defendant has not had a previous case assigned to the family violence education program, (3) the defendant has not previously invoked or accepted accelerated rehabilitation... for a family violence crime ... (4) the defendant is not charged with a Class A, class B, class C felony or an unclassified felony carrying a term of imprisonment of more than ten years, or unless good cause is shown, a class D felony or an unclassified offense carrying a term of imprisonment of more than five years.

In reviewing the legislative history of the creation of the Family Violence Intervention Unit and the FVEP, the legislative intent was to create a program for first time offenders. On March 3, 1986, during the extensive testimony concerning the creation of the Family Violence Intervention Unit and the FVEP, Representative Shays and Ms. Astrida Olds, the Chair of the Governor’s Task Force on Family Violence, discussed the vision for the program as well as the current state of domestic violence as it was in 1986.

Rep Shays: When you mentioned 40,000 domestic cases of violence, I missed, if you said it, how many are actually cases where someone is arrested, out of the 40,000.

Ms. Olds: 9,000 is the figure of actual arrest. 40,000 was the figure that was arrived at through research.

Rep. Shays: All right, so approximately 10 or 25 percent or close to it, a little less than 25 percent.....

Ms. Olds: ...That’s (the Bill) is being modeled after the DWI program that exists now.....

Rep. Shays: ... A second arrest would be dealt with much more seriously. (Family Violence Prevention and Response Act: Joint Standing Committee Hearing on Substitute House Bill No. 5255 before the Judiciary Committee (1986), Testimony of Representative Shays and Ms. Astrida Olds).

Throughout the legislative hearing on March 3, 1986, there were numerous references to the intent of the legislature which was to create a program for “first time offenders” and to set up a system for domestic violence abusers to be punished for their crimes. “...some women now are concerned about calling the police because they don’t want the man arrested. Usually that is because they’re afraid that he won’t particularly be punished and therefore he’s going to come back after them and hurt them more and hopefully this Bill would alleviate that problem.” Attorney Steve Epstein (Joint Standing Committee Hearing on Substitute House Bill No. 5255, Supra, Testimony of Steve Epstein, Page 525). Additionally, the intent that all pre-trial diversion programs including the FVEP be available strictly for first time offenders is echoed in an article produced for the Legislature that evaluated the Pretrial Division and Alternative Sanctions programs released on September 22, 2004. “Pre-trial diversion is intended to redirect persons arrested for the first time from further involvement with the criminal justice system by deferring prosecution and ultimately dismissing the charges upon successful compliance with certain court-based conditions”⁷. Despite the limiting nature of the statute, the legislative intent, and the legislative history, in practice the FVEP is routinely granted to all domestic violence offenders, without the proper finding of “good cause” or even when the offender has had the program in the past or even when the offender is currently engaged in the program.

It is clear from the court records that the FVEP is being utilized by at least some of the state’s attorneys as a mechanism to manage the case loads in the GA courts and not for its original purposes which was to rehabilitate first time, non-serious, offenders. In the investigation by the OVA and through the daily work of the OVA, almost all domestic violence cases are being referred for either an “informal” diversionary program under C.G.S. § 46b-38c (g) or the FVEP under C.G.S. §46b-38c (h), regardless of the severity of the offense and without evaluation of the facts and appropriateness for the referral. The cost of this type of factory response in handling of domestic violence cases is domestic violence victims' lives are placed in danger. This investigation evidences that the requirement for a showing of “good cause” for crimes involving a class “D” felony, are summarily glazed over and violent

⁷ *Staff Briefing: Pre-Trial Diversion & Alternative Sanctions, Legislative Program Review & Investigations Committee, September 22, 2004.*

offenders are being granted referral for the FVEP. The investigation also established that the bar to participation for the Family Violence Education Program, including crimes involving a Class “A”, “B” or “C” felony had been ignored. Further troubling is that there have been no steps taken to ensure the results sought through the pre-trial FVEP are being met. The Legislative Program Review and Investigations Committee were unable to evaluate the pre-trial division programs because the statistics on “client admission and discharge data” is not captured by the Court Support Services Division. The Judicial Branch typically states that the “discharge data” is confidential. Therefore, the Committee found that they were “unable to determine satisfactory discharged rates for any pretrial division program.”⁸ The notion that discharge data is confidential is troubling at best as the offender is in the program because he/she is ordered to participate as the result of a crime and the individuals’ favorable discharge of the criminal charges is contingent on successful completion of the program.

According to the Family Violence Statistics of 2009, provided from the CT Judicial Branch, there were 40,065 individuals charged with Family Violence Crimes in the state of CT.

Here’s the Break Down of those 40,065 cases:

Nolle	27,546
Dismissal	5,783
Guilty	6,589
Not Guilty	14
Not Prosecuted	123

In other words, of the 40,065 cases of domestic violence, only 16.4% plead Guilty and the remaining 83.6% were Nolled, Dismissed, Not Prosecuted or Found Not Guilty. When we compare the statistics of domestic violence reported to the police from 1986 to the reports from 2009, the numbers, for the most part are the same. In fact the number of cases prosecuted in 2009 are actually lower than those reported in 1986. In 1986 it was noted that the state prosecuted less than 25% of the domestic violence arrests. In 2009, the statistics reflect that of the 40,000 arrests for domestic violence, the state “prosecuted” 16.4 %. To understand the mechanism that is allowing over 83% of domestic violence cases to be dismissed, or nolled, one has to look at the Family Violence Intervention statutes, specifically

⁸ *Id.* page18.

C.G.S. §46b-38c (g) which allows for unlimited “informal” diversion through the Family Violence Intervention Units. C.G.S. § 46b -38c(g) states in pertinent part that:

In cases referred to the local family violence intervention unit, it shall be the function of the unit to (1) identify victim services needs and, by contract with the victim services providers, make available appropriate services and (2) identify appropriate offender services, make available appropriate services and where possible, by contract, provide treatment programs for offenders.

This language has been utilized by the state prosecutors to allow for domestic violence offenders to avoid prosecution and be referred to “programs” such as anger management, substance abuse, counseling, etc, without limitations. The formal pretrial FVEP under C.G.S. 46b-38c (h) has limits to eligibility, although as seen in the present case, these limits are, at least in some Courts, ignored. Neither program provides for consequences if the offender commits a new crime not related to domestic violence, and only the “formal” program has language to address new crimes related to family violence. However, again these limits are also, in practice, ignored. In effect what CT has done by creation of the Family Violence Intervention Units, is create a Court endorsed, codified system to avoid prosecuting domestic violence at the identical rate as it was in 1986. Although the laws have affected change within the structure and practice of the law enforcement community through mandatory arrest and trainings, the problem has been transferred from the street, to the courthouse through the lack of prosecution. More importantly by treating domestic violence victims as a class different from all other crime victims through allowing endless diversionary opportunities and failing to prosecute crimes of Family Violence, the state of Connecticut’s Criminal Justice System, through its prosecutors and Judges, are arguably violating those victims’ Federal Civil Rights and State Constitutional rights.

The OVA, in working with numerous domestic violence victims has heard time and again the same statements that were articulated in the testimony in 1986. Specifically victims of domestic violence are reluctant to contact the police when the system fails to hold offenders accountable. The OVA has also identified that offenders who are participants in pending FVEP, whom commit an additional domestic violence offense are permitted to fold the new offense into the pending FVEP. This practice only serves to put the victim in danger, does not address the continued abuse or escalation of the offender’s behavior and sends the offender and victim the wrong message that the continued abuse of the victim will not be taken seriously by the prosecutors or courts.

Furthermore, an offender who is actively enrolled in the FVEP who then commits a new crime that is not specifically a “family violence crime” is still statutorily eligible to remain in the program and have the domestic violence criminal matter dismissed regardless of any new crime. This begs the question as to what is the purpose of the FVEP. If the program is to “save” a defendant’s record, then why wouldn’t a new offense regardless of whether it is a domestic violence crime, cause a defendant to become ineligible for further participation in the FVEP and place the original domestic violence charges back on the docket? Additionally, if the purpose is to educate and rehabilitate, how is that possible if new offenses are ignored, especially when we know new offenses are often an outward manifestation of escalation?

Under the United State’s Constitution all persons are entitled to equal protection. “No state shall ... deny to any person within its jurisdiction the equal protection of the laws.” *U.S. Const. amend. XIV, §1*. Furthermore, denial of equal protection under the law based on gender is forbidden. Section 20 of Article First of the Connecticut Constitution, as amended, states that “no person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin, sex or physical or mental disability.” *Conn. Const. Art. 1, §20*. In fact, in Thurman v. City of Torrington, 595 F.Supp. 1521 (D.Conn. 1984), the Connecticut District Court detailed the law under equal protection as it pertains to victims of domestic violence stating that:

This duty applies equally to women whose personal safety is threatened by individuals with whom they have or have had a domestic relationship as well as to all other persons whose personal safety is threatened, including women not involved in domestic relationships. If officials have notice of the possibility of attacks on women in domestic relationships or other persons, they are under an affirmative duty to take reasonable measures to protect the personal safety of such persons in the community. Failure to perform this duty would constitute a denial of equal protection of the laws. Although the plaintiffs point to no law which on its face discriminates against victims abused by someone with whom they have a domestic relationship, the plaintiffs have alleged that there is an administrative classification used to implement the law in a discriminatory fashion. It is well settled that the equal protection clause is applicable not only to discriminatory legislative action, but also to discriminatory governmental action in administration and enforcement of the law . . . The plaintiffs have alleged that this failure to act was pursuant to a pattern or practice of affording inadequate protection, or no protection at all, to women who have complained of having been abused

by their husbands or others with whom they have had close relations. Such a practice is tantamount to an administrative classification used to implement the law in a discriminatory fashion. Id. at 1527 -1528.

Arguably, the current practices under C.G.S. § 46b-38c (g) may be unconstitutional as the statute codifies treating victims of domestic violence different than all other crime victims by treating crimes of domestic violence less seriously than all other crimes, in violation of the domestic violence victims' equal protection rights through the United States Constitution and the Connecticut state Constitution. Furthermore, the practice of allowing a defendant charged with domestic violence to continuously, without limitation, participate in "informal" Family Violence diversionary program under C.G.S. § 46b- 38c (g) and also the formal Family Violence Education Program, the under C.G.S. 46b-38c (h) and failing to prosecute these crimes are similarly violating the victims' Constitutional rights to equal protection as well as the victims' rights to be reasonably protected from the offender, in violation of Connecticut's Crime Victims Rights Amendment. The failure of the prosecutors in this case, to triage the case involving Ozdemir and seek prosecution, to attempt to have contact with the named victim, to object to the Defendant's application for the Family FVEP (based on his ineligibility and lack of establishing "good cause") to screen the victim and her children for witness protection and to identify that the defendant had been violating the order of protection, amount to, arguably, violations of the victim's State Constitutional and Federal Constitutional rights.

Further troubling is that many of the federal grants to which the state relies upon for domestic violence programs and funding key positions, discourages "activities that may compromise victim safety.....such as....offering perpetrators the option of entering pre-trial diversion programs..."⁹. The reasoning behind discouraging pre-trial diversion is that this pre-trial diversion has been found to be among the practices or activities that "may have the effect of minimizing or trivializing the offender's criminal behavior". Id. Thus the Department of Justice, Office on Violence Against Women, discourages pretrial diversion as it is inconsistent with the goals of ensuring victims' safety and holding the offender accountable. Id.

CONNECTICUT JUDICIAL BRANCH ON DOMESTIC VIOLENCE:

The Judges who presided over the case of the State vs. Selami Ozdemir, did not address the Defendant's ineligibility for the FVEP due to the charge of Risk of Injury

⁹ U.S. Department of Justice, Office on Violence Against Women, *Recovery Act STOP Violence Against Women Formula Grant Program* application, page 13, March 13, 2009.

to a Child, which stands as a complete bar to the FVEP. Setting the issue of the defendant's ineligibility aside momentarily, the Judges also neglected to determine whether the Defendant's Motion to establish "good cause" as to the charge of Assault 2nd, had been established. In fact on October 21, 2009, the presiding Judge Sequino proceeds with the Defendant's case without the defendant's file in Court. Whether the file would have alerted the Judge to the issues of the Defendant's eligibility remains to be determined. The Motion by the defense for Ozdemir in no way established "good cause" for the court neither to waive the restrictions for participation into the FVEP nor to overcome the defendant's ineligibility. The Judge presiding over matters involving domestic violence must ensure the laws of the state of Connecticut are honored.

BAIL BONDSMEN:

In Connecticut Bail Bondsmen are licensed through two separate entities: The Department of Public Safety (DPS) pursuant to G.C.S. § 29 - 144 and the State Insurance Department pursuant to C.G.S. § 38a - 600a. The DPS has established Administrative Guidelines and Rules for Professional Bondsmen and the Department of Insurance is permitted to adopt regulations related to the schools offering courses on the duties and responsibilities of Bondsmen. In 2011 and 2012, the Department of Insurance added domestic violence training to the course syllabus for Bail Bondmen.

The current DPS application for Bondsmen only requires a person interested in being considered as a Bondsmen to disclose if they are currently "the subject of a restraining or protective order". To disclose past restraining and protective orders should be a valid consideration when either the DPS or the Insurance Department is determining whether someone possesses the fitness and character to be a Bondsmen. Additionally only felony convictions are triggers for license revocation of Bail Bondsmen and yet there are some misdemeanor offenses which may indicate an individual is unsuitable for Bail Bondsmen work.

DOMESTIC VIOLENCE SERVICES IN CONNECTICUT:

In reviewing the facts and circumstances in the events leading up to Rasim's murder, there are several gaps in services to victims of domestic violence that have been identified through the OVA. In this case, Rasim was an undocumented person and a crime victim. As such, she may well have been eligible to apply for a U Visa or Violence against Women Act better known as a VAWA Petition to allow her to remain and eventually obtain permanent status in the United States. This process

could have been initiated through a domestic violence advocate. Unfortunately, it does not appear that any of the domestic violence programs initiated the U Visa or VAWA Petition process. In speaking with several of the programs and Legal Aid representatives in CT, it appears that depending on the jurisdiction, certain Legal Aid Offices will provide limited assistance to a domestic violence victim in this regard, while others have, at least historically, not been inclined to assist. Had the U Visa or VAWA petition process been started, some of the pressures on Rasim may have been eliminated and housing options would have become available in the future. For instance DVCC mentions in their notes that Rasim had desired to seek housing in the New Haven or West Haven area, but had limited options as a direct result of her undocumented status.

In speaking with a representative of the Connecticut Coalition Against Domestic Violence (CCADV) there was training by Legal Momentum on U Visas and VAWA petitions in 2009. At the time of this report, there appear to have no requirements or standards regarding the processes for assisting victims of domestic violence in their U Visa application or VAWA petition. It is clear there is a disconnect within our system.

COMMUNITY EMPOWERMENT:

In reviewing the facts and circumstances of the events surrounding the murder of Rasim, there is an identified need for community empowerment and education on domestic violence and services. These services should be targeted at community members to identify and support the needs of victims of domestic violence. For instance, the downstairs neighbor of Rasim had told police that Rasim's son had told her his father was going to kill his mother. The neighbor educated the child on how to contact 911. The community and employees at Empire Pizza also indicated fears for Rasim and knowledge of Ozdemir's abuse. Rather than placing the responsibility on the victim, who is often disempowered, emotionally and mentally and spiritually broken to seek services for domestic violence, it seems that education on the signs, services and pathology of domestic violence targeted at bystanders and third parties would be significantly beneficial. Many times when the OVA staff have attended or participated in trainings and educational endeavors, there are comments made by participants that indicate our communities are lacking a clear understanding of domestic violence services available and how precisely to assist a friend, family member or colleague who may be in a dangerous abusive relationship. This community piece is vital to the safety and protection of victims of domestic violence. Many victims of domestic violence, who are living with abusive partners, may struggle with identifying the abuse as abuse. This is especially true in cases of

verbal, emotional and financial abuse, as well as stalking and harassment, which are often difficult to identify. In addition, the abuser often compounds the victim's difficulties in identifying the behavior as dangerous, by creating confusion with a victim's sense of reality through continual and consistent barrages at the victim embedded with deceit and manipulation. The victim may feel like she/or he is swimming in a sea of confusion and have difficulty identifying abuse due to the abuser's constant pressures. Therefore, the community and supporters of the victim must be empowered and educated to identify the signs of abuse, the services in the community and how to approach someone they feel may be a victim of abuse, in a way that is helpful and empowering.

WEST HAVEN POLICE DEPARTMENT:

In reviewing the police reports and the internal investigation of the West Haven Police Department (WHPD), it appears that the West Haven Police dispatchers, on the day of the murder, did not provide all relevant information to the responding police officers. As a result, the responding police officers, after checking the residence for Ozdemir and not locating him, left the residence but did issue a "be on the lookout" (BOLO) for Ozdemir. From the information provided, the police officers were not made aware that Ozdemir was intoxicated, irate and had made statements that he was returning to the familial home. Uninformed of the apparent escalation, the officers may or may not have had sufficient information to fully appreciate the level of threat and to evaluate the situation. The dispatchers at any police department need to be trained to (1) understand the cycle of violence and (2) to appreciate that when a victim calls the police for assistance when there's a history, the dispatcher should appreciate that the continued reports of violence are an escalation and indicate an increased threat level to the victim.

On the day of the murder/suicide, it is important to point out the timeline involved. The West Haven Police Officers cleared the residence at 341 Blohm Street, West Haven CT, at 3:47 am. At that time the Officers were unaware of the phone call from Ozdemir's employee suggesting Ozdemir was returning to the residence, which came in at 3:43am. The 911 call from the victim Rasim came in at 3:53am and Officers were on scene at 3:54am. The Officers were inside the home at 341 Blohm Street at 4:02am. It appears Ozdemir entered the residence at or around 3:53 am, and that he was waiting nearby, out of sight, for the Officer's to leave the residence. There was an 8 minute delay in obtaining entry to the residence as a result of the doors being locked and stairwell being blocked by furniture.

On or about February 17, 2010, the West Haven Police Department conducted an Administrative Review through Captain Karajanis as well as engaged in the services of Glenn Investigations, from East Lyme, CT, to perform an independent internal investigation into the Murder/Suicide of Rasim and Ozdemir. The results of the internal investigations sought to determine what, if any, procedural or Departmental policies were violated and to determine what steps could be taken to increase protections to the community. The Internal Investigation led to identifying several areas for improvement: Dispatch/Officer communications; Desk Sergeant responsibilities; communications with victims; and communications with individuals for whom English is a second language. Additionally, four officers of the West Haven Police Department were disciplined following the internal and independent investigations. The swift response in reviewing West Haven Police Department's response and the disciplinary actions by the Department are precisely the type of responsiveness that is encouraged by the OVA and needed by the community in the aftermath of domestic violence tragedy. The West Haven Police Department's responsiveness sets a high standard for the Department and notifies all employees and the community that the Department has reviewed actions taken on January 17, 2010, and made significant changes to ensure the safety of its community, while establishing what is expected by the Officers and Dispatchers while on duty.

In August of 2010, the OVA met with the West Haven Police Chief and learned of the great strides the WHPD had taken to train the dispatchers including establishing a Special Victims' Unit, with five assigned Detectives, to focus on cases of domestic violence and sexual assault.

In conclusion, the recommendations of Glenn Investigations, along with the steps taken by the West Haven Police Department to enhance the response to domestic violence, are endorsed by the Office of the Victim Advocate and seem to capture the nuanced missteps appropriately.

RECOMMENDATIONS

Referrals to Family Violence Education Program

Immediate Cease and Desist of all referrals of domestic violence criminal matters by the state of Connecticut prosecutors and Judges, under C.G.S. § 46 b -38c (g) and (h) unless and until the statute is amended to remedy Federal Civil Rights Violations and state Constitutional Rights violations involving victims of domestic violence.

Under the current statute, crimes of domestic violence are treated less seriously than other assaultive crimes. Domestic violence offenses, under the statute, and through the practice of the state prosecutors, are permitted to be diverted from regular prosecution without limitation; whereas other assaultive crimes are permitted a onetime diversion under the Accelerated Rehabilitation program pursuant to C.G.S. §54-56e. By allowing, through statute and practice, limitless pretrial diversion of domestic violence criminal matters, the state of Connecticut (1) is treating victims of domestic violence as a class different than other crime victims in violation of the Federal Constitution; and (2) failing to honor the State Constitutional right of victims of domestic violence to be reasonably protected from their offender.

State prosecutors are only protected from liability for discretionary actions and do not have absolute immunity for administrative decision making within their employment. For administrative decision making activities, at most prosecutors have only qualified immunity. However, as stated by the Idaho District Court, in Sylvia M. Flores v. David L. Young et. al., Case No. CV-05-110-S-BLW, Order Granting Mot. Summ. J., Dec. 1, 2005, a reasonable person would have known that treating domestic violence cases less seriously than other crimes implicates the Equal Protection Clause because females are the predominate victims of domestic violence. Thus it is unlikely that a prosecutor would succeed in a qualified immunity defense. According to Flores v. Young qualified immunity protects governmental actions from liability so long as their conduct does not violate a clearly established right which a reasonable person would have known. Harlow v. Fitzgerald, 457 U.S. 800 (1982). Through the statutory language cited above, prosecutors' duties include the duty to prosecute crimes in their jurisdiction.

Family Violence Intervention Unit and Family Violence Education Program:

The MOU between the Connecticut Chief State's Attorney, Richard Palmer and the Director of the Family Division of Superior Court, Anthony Salius, concerning the implementation of the Family Violence Prevention and Response Act must be

updated as well as the Connecticut General Statutes related to the Family Violence response and Intervention Unites. Specifically:

- Commission of a new offense shall be grounds for expulsion from the FVEP Program. Participants in the FVEP should be required to sign conditions of the program including an agreement not to commit any new offenses. New offenses, regardless of whether the new offenses are related directly to family violence, are an indication of escalation in one form or another. However, there should be a caveat that a defendant may file a Motion to establish “good cause” to remain in the FVEP and have an opportunity to be heard. For a limited number of cases there may be a “good cause” reason to permit an individual to remain in the FVEP program even if the individual has been charged with a new offense.
- The role of Family Relations Officers in the criminal matters should be amended and limited to providing social services referrals, program referrals, informing the Court as to whether a Defendant is in compliance with the program, and informing the Court if and when a defendant has successfully completed the program as assigned. The current MOU has language indicating that the Family Relations Officers shall make “recommendations regarding dispositional alternatives...limited to nolle, conditional discharge, accelerated rehabilitation and dismissal.” Which is problematic as it encroaches on the prosecutor’s role. The role and duties of a prosecutor are to: determine if and when a defendant should be prosecuted; what charges are prosecuted, and recommendation for sentence to the Court. The MOU specifically spells out that the Family Relations Officers are to provide “non-legal” services. Whether a Defendant should receive a nolle, conditional discharge or dismissal in a pending criminal matter ARE legal determinations and thus are the responsibility of the prosecutor. In many Courts, the OVA has found that the prosecutors have delegated the role of the prosecutor at arraignment to either the Family Relations Officer or the State’s Attorney’s Inspector. The statutory language is clear that the referrals must be made by either a “Judge or State’s Attorney”.
- Cases delegated for FVEP should be reviewed by the Court in intervals of every month or six weeks, so that the Court and Prosecutor can ensure the defendant is in compliance and ensure the safety needs of the named victim are being addressed. Domestic violence can escalate quickly and many times the victim of domestic violence may not be in a position to identify the defendant’s escalating behavior. By

monitoring the FVEP cases in Court, the Courts will allow a platform for victim outreach (a service provided for by Family Relations and a responsibility of prosecutors) as well as allow a victim and/or advocate to bring forward concerns or issues that may be missed in the individual or group sessions of Family Relations Officers.

- Establish a formal policy for ensuring cases involving alleged neglect or abuse involving children are referred to DCF by Family Relations Officers as required by recent legislation 46b-38c (2011).

Practice Book and Domestic Violence Arraignments:

Establish a Practice Book Rule and Statewide policy requiring State’s Attorneys, Assistant State’s Attorneys and Deputy State’s Attorneys to triage all domestic violence cases at arraignment, including screening for safety issues and witness protection participation.

The State’s Attorneys, Assistant State’s Attorneys and Deputy Assistant State’s Attorneys have an obligation to make themselves familiar with criminal matters that come before them in Court. “The division shall take all steps necessary and proper to prosecute all crimes and offenses against the laws of the state and ordinances, regulations and bylaws of any town, city, borough, district or other municipal corporation or authority.” C.G.S. §51-277 (b). In fact under C.G.S. § 51-286(a) the responsibilities of State’s Attorneys and Assistant State’s Attorneys is clearly laid out. “Each State’s Attorney and Assistant State’s Attorney and Deputy Assistant State’s Attorney shall diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court or in which the court may proceed, whether committed before or after the appointment to the office”.

In cases of domestic violence, history has proven that one of the most dangerous periods for the victim and his or her family is when the offender is arrested and/or a divorce is sought by the victim. Therefore, it becomes clear that the triage of domestic violence cases at arraignment by a trained prosecutor is vital to the continued safety of the domestic violence victim who has turned to law enforcement officers and, subsequently the Courts, for protection. The State’s Attorneys, Assistant State’s Attorneys and Deputy Assistant State’s Attorneys are in the best position to triage matters involving domestic violence at arraignment and continue to follow these matters while a case is pending in Court. The arraignment of a domestic violence offender positions the state prosecutor as the depository for all relevant information pertaining to the continued safety and protection of the named victim and his or her family, while at the same time ensuring the offender is held accountable for his or her criminal conduct. This requires the prosecutor to make

themselves, not others, familiar with the facts and circumstances of the criminal matter, the offender's criminal history, the general and unique safety concerns of the named victim and his or her family, the legal requirements for participation in FVEP and other diversionary programs, the bail/bond request and its appropriateness, the charges currently lodged against the defendant and also screen the case for additional or substitute charges as appropriate and screening for witness protection. Connecticut prosecutors have over time, developed a practice of having their investigators, or the Court's Family Relation's staff, or the Bail Commissioner and their staff, handle these cases. However, the law requires the Connecticut state prosecutors to respond on behalf of the State.

Additionally crime victims have a State Constitutional right to be reasonably protected from the offender. This places additional responsibility on the state prosecutor, as the lead law enforcement authority, to insure a victim of domestic violence is, in fact, "reasonably protected from the offender."

Connecticut prosecutors must be actively working with victims of domestic violence whose cases are brought to court, especially at arraignment. In Rasim's case the only contact the prosecutor had with Rasim was one conversation from the Family Relations Officer, who, by the way, is obligated to inform the victim that all conversations will be shared with defense and the defendant. Thus the victim may very well be reluctant to bring forth concerns. The prosecutor never spoke with the victim and did not seek follow up information or communications with the victim or advocate after the one conversation of October 8, 2009. We know later in December 2009 and January 2010, that Shengyul Rasim and her children sought shelter in Stafford. Therefore, had the prosecutor had continued and regular contact with Rasim, the prosecutor could have brought Rasim's concerns for her safety to the Court's attention in furtherance of honoring Rasim's State Constitutional right to be reasonably protected from the offender.

Leroy Brown Sr. and Karen Clark Witness Protection Screening:

Establishment of a statewide policy or, if need be, seek legislation, for a formalized screening during arraignment of victims/witnesses of serious felonies for the Leroy Brown, Jr. and Karen Clark Witness Protection Program.

Currently there is no current statewide screening policy or procedure in any of the thirteen State's Attorney's Office to identify witnesses and therefore, crime victims, of serious felonies who may need the services of the Leroy Brown, Jr and Karen Clark Witness Protection Program administered through the Chief State's Attorney's Office. The lack of a formalized screening policy allows for victim/witnesses to remain in danger. Furthermore, a statewide policy would assist the law

enforcement community in streamlining the process of alerting the State's Attorney of witnesses/victims who may be in danger, thereby increasing protection of these individuals. The policy should include certification procedures for after hours, such as in cases like Shengyul Rasim's case and identify point of contact persons in each JD.

Hold Over Period for Domestic Violence Offenders:

In this case, because of the bond situation and of authority engendered by law enforcement, there was no way for the police to hold the offender until the next Court date. There is a strong need for legislation to empower the police to hold a domestic violence offender in custody until the next court date to ensure the safety of the named victims.

Bail Bondsmen: Mandatory Training and Education for Bondsmen:

Bondsmen are involved in a majority of domestic violence cases and in most cases, during the pre-prosecution period, which has been proven to be a potentially lethal time for victims of domestic violence and their children. Therefore the following recommendations are necessary to ensure the safety of domestic violence victims:

- The application for consideration for becoming a Bondsman should include a full disclosure of all prior restraining and protective orders of the applicant. The individual's history of restraining and protective orders shall not be a complete bar for employment as a Bondsman, but rather serve as one aspect of determining an individual's character and suitability for employment in this field.
- Bondsmen should also be imputed with a duty to warn when and if a client voices a specific threat to an identified individual(s). The duty to warn should include notifying the police, who can then notify the named victim (if known).
- Bondsmen should also be prohibited from taking a domestic violence offender back to the familial residence after bond is made and to do so, would constitute grounds to lose one's bail bonds license.
- Mandatory Training: A requirement for becoming a Bondsman, an individual should have to engage in formalized training and education on domestic violence, including the dynamics of domestic violence, threat assessment components, and laws pertaining to restraining and protective orders. This training should include clear instructions on the prohibition on taking a domestic violence offender back to the familial residence after bond is made and the Bondsman's responsibility for duty to warn. The OVA has worked with the State Department of Insurance who has incorporated domestic violence in the curriculum for Bondsmen.

Offender Based Tracking System (OBTS), Erasure of Records, and Threatening:

In this case Ozdemir had a previous incident involving a firearm. In summary, Ozdemir brandished a firearm at several customers because the customers attempted to eat takeout food inside the restaurant. Ozdemir was charged with Reckless Endangerment, Breach of Peace and Threatening – all misdemeanors. It appears Selami Ozdemir was granted the Accelerated Rehabilitation Program and, as a result, records of this offense were erased and did not appear when police queried Ozdemir's Offender Based Tracking System (OBTS) record. Additionally, the state of Connecticut did not have a charge to reflect the act of brandishing a loaded firearm in a threatening manner until passage of PA 12-114. Prior to the change, the only available charge was a simple threatening charge which is a Class A misdemeanor. C.G.S. §53a - 62. As a result, the police were unaware of the seriousness of the previous incident with Ozdemir as the charges did not appear on OBTS. Even if the charges had appeared on OBTS, the lack of a viable threatening charge to reflect a loaded firearm, would still not communicate the seriousness of the incident. Had the police been aware, they may have then requested information about the prior incident and learned the incident occurred at work, which may have alerted the police to search the workplace of Selami Ozdemir for a gun.

- **Erasure of information:** There is a serious problem with erasing criminal history information from our state's OBTS database. The erasure places the police and Courts at a disadvantage when determining the threat level of an individual and appropriateness sentences. OBTS should contain all criminal history information regardless of the ultimate sentence. The erasure should be targeted at limiting the "public's" access through the judicial website and through queries unrelated to law enforcement or Court activities. It is imperative that law enforcement be allowed access to this information to gauge an offender's threat level and for the Court to know if someone has taken advantage of a diversionary program to determine sentences.
- **Creation of a Threatening Charge Involving a Firearm:** At the time of these events there were no statutes to capture the crime of threatening with a firearm and as a result there is no distinction between verbal threats and threats with a loaded firearm. During the 2012 legislative session the OVA advocated for and was successful through Public Act 12-114 §10 in creating a distinction in the Threatening in the 1st Degree statutes, when the threat involves the use, threatened use or display of a firearm.

Protective and Restraining Orders: Removing or Disarming of Firearms for ineligible persons:

From the facts it appears that Ozdemir had placed a firearm which he had illegally obtained from Torun Okten, in the safe located at his restaurant. The 1999 incident

involving Ozdemir brandishing a firearm occurred at Selami Ozdemir's place of employment. Additionally Ozdemir also informed the Board of Firearms that he is "employed in a troublesome area in the City of New Haven and needs a weapon for myself protection and for the protection of my customers." In removing or disarming firearms from an ineligible individual who is the subject of a Protective or Restraining Order, law enforcement should apply for a search warrant of the individual's place of work as an added step to ensuring all firearms are seized.

- Training for Removal of Firearms: Training for law enforcement officers targeted at seizure of firearms as a result of restraining and protective orders should include specific inquiries targeted at an individual's place of work and query of prior bad acts involving guns.
- Training for law enforcement officers targeted at applying for a Seizure Warrant of firearms based upon imminent risk or harm to self or others.

Department of Children and Families:

At the time of the incident it was clear there was a gap in accountability when mandated reporters fail to report suspected child abuse or neglect. Not unlike the OVA's Investigative Report on the Murder of Jennifer Magnano, in this case three entities failed to report suspected child abuse and/or neglect after an arrest. The responsibilities entrusted upon mandated reporters can be life saving. There needs to be accountability with follow up training when an individual fails to perform their duties as a mandated reporter. Since the incident there have been several changes to DCF's mandated reporting laws. See Public Act 11-93. Section 3 states "A mandated reporter who fails to report to DCF is required to participate in an educational and training program established by the commissioner". Section 8 states "The commissioner of DCF shall promptly notify the Chief State's Attorney when there is reason to believe that any such person has failed to make a report". Additionally section 7 states "If the Commissioner suspects or knows that h mandated reporter has failed to make a report of abuse/neglect the commissioner shall make a report of such delay and develop and maintain a database. DCF will also develop a policy for the investigation of delayed report by mandated reporters."

CT Coalition against Domestic Violence (CCADV); Domestic Violence programs:

There needs to be standardization of referrals and information for the safety and benefit of victims of domestic violence.

- Adopt a Standard process for victims of domestic violence (it would make sense to coordinate and pool resources with the Connecticut Sexual Assault Crisis Center (CONNSACs) to hire a point person) to respond to the need for immigrant victims. The VAWA petition and U Visa application process is

lengthy and requires an individual who's an expert in the area to coordinate efforts for the immigrant victim.

- There is a need to re-vamp the state's legal services for immigrant crime victims. The OVA is currently in the process of creating a working group and/or Committee to streamline the services for this population and identify gaps in services to be addressed.

Connecticut Practice Book Update:

Crime Victims' in Connecticut have both state Constitutional and statutory rights. Unfortunately, as is sometimes the case with newly afforded rights, the legal system seems to be slow to adapt to the rights of crime victims. Many times these rights can be protected through advocacy by a state prosecutor, such as informing the Court that a victim would like to make an impact statement or wishes to seek restitution or seeks an order of protection. The prosecutor has an ethical responsibility to ensure both the defendant and the victims' rights are not abridged. Under the Connecticut Practice Book, Rules for Professional Conduct, Rule 3.8, Special Responsibilities of a Prosecutor, the rules of ethics include specific rules to protect the rights of defendants. Rule 3.8 (2) – 3.8 (4) specifically require the prosecutor to ensure the defendant is aware of his or her rights as an accused including the procedures for obtaining an attorney, ensuring the defendant has had reasonably time to obtain an attorney, forbids the prosecutor from attempting to obtain a waiver of the defendant's pre-trial rights, and discovery obligations. It is clear, from the stand point of the Connecticut Practice Book Rules Committee, the prosecutor serves a central role in ensuring the rights of an offender are guarded and protected. In the commentary of Rule 3.8, the following language states, in pertinent part: "A prosecutor has the responsibility of a minister of justice and not simply advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence." Ensuring the rights of crime victims which are embedded in our state Constitution, are adhered to, are similarly the responsibility of the state prosecutor, as an officer of the court and as the state's law enforcement officer. Therefore, the OVA recommends that the Connecticut Practice Book, Rules of Professional Conduct, Rule 3.8 be amended to include a specific rule addressing the responsibilities of a state prosecutor to ensure that the rights of a crime victim are honored and protected.