

TIANA ANGELIQUE NOTICE

On February 14, 2009, Tiana Notice was brutally stabbed to death, exactly five weeks and two days after obtaining an ex parte restraining order against James Carter II, her ex-boyfriend. Twenty-four hours prior to her murder, Tiana Notice had reported numerous restraining order violations to the Waterbury Police Department and the Plainville Police Department and was met with numerous obstacles preventing her from achieving safety.

This investigative report highlights systematic failures regarding the response to violations of orders of protection and the procedural issues involved in enforcement of orders of protection.

FACTS

Tiana Notice and James Carter II dated for a period of time until December 2008, when Tiana terminated the relationship over concerns of Carter's volatile behavior.

On November 17, 2008 James Carter II requested the assistance of the Plainville Police Department with removing his personal belongings from Tiana Notice's home, located at, 140 Whiting Street, Plainville, CT, 06062. The Plainville Police provided assistance and reported the parties were "mildly arguing" and Tiana was emotional.

During the months of December 2008 and January 2009, Carter continued to contact Tiana, despite her repeated requests that he stop. She reported to one of her friends that Carter was "persistently bothering her".

On January 4, 2009, James Carter II went to the Plainville Police Department alleging that Tiana Notice threatened him while he was at her home. The Plainville Police documented in their report, that despite Carter's allegations that Tiana had "assaulted him", he showed no visible injuries and was very calm when talking with police. In fact Carter, according to the police, seemed more concerned with the return of his property. The Officers spoke with Tiana and documented in their report that Tiana appeared credible. The police concluded in their report that they found no probable cause to indicate a crime had been committed.

On January 6, 2009, Tiana Notice went to the Plainville Police Department to return some items that belonged to James Carter II.

On January 8, 2009, Tiana Notice sought and obtained an ex parte restraining order against James Carter II from the New Britain Family Court. Tiana, in support of her application for the restraining order, reported that Carter sent her threatening text messages, filed false police reports against her and threatened her friends and family. Tiana provided the Court with a print out of the text messages from Carter. Tiana was granted the ex parte restraining order against James Carter II. The Order contained an additional order of "no contact" directed at Audrey Carter (Carter's mother), James Carter Sr. (Carter's father) and Brendan Carter (Carter's brother)¹. The Court scheduled a hearing to extend the order beyond the fourteen days, on the Order for January 16, 2009, to be held at the New Britain Family Court.

On January 9, 2009, James Carter II, was served with the ex parte Restraining Order, ordering him to stay away from and have no contact with Tiana Notice.

On January 13, 2009, Tiana Notice went to the Plainville Police Department to report that she received harassing emails from James Carter II in violation of the restraining order

¹ It is unclear how an order against Carter's family could ever be enforced, since they would not have been provided notice of the restraint on their liberty and their order was embedded within James Carter II's order. Thus, the order against Carter II's family would have given Tiana a false sense of protection from his family.

she had against James Carter II. Officer Barrett took Tiana's complaint. In his report, Officer Barrett indicated that Tiana had received three emails, which included statements such as:

“trust me baby girl, . . . you are go. . .to lose everything!”

“as God as my witness. Punishment is on the way so be prepared . . .”

“You will have nothing but bad luck you hear me? Remember this email when KARMA bits you in the ass!”

“ . . .but you will have to answer to GOD first for screwing James' family over because of all the things they did for you.”

The Officer, however, described the emails as “non-threatening” in nature and began a protracted investigation that spanned over a month in duration. As part of his investigation, the Officer questioned Carter II who claimed that his “girlfriend”, a female by the name of Ms. Jessica Banderas, contacted Tiana from Carter's wireless internet. The Officer conducted a search through various avenues, such as NCIC, for the individual named Jessica Banderas and found no record of such a person. During the investigation, the Officer caught Carter in a number of lies, including lying about dating Jessica Banderas, the individual he attempted to blame for the emails. During the investigation, Carter's father was interviewed, and he told the Officer that Tiana had taken a restraining order out against him and his wife. However, Tiana had only requested “no contact” with his parents and brother, as part of her ex parte restraining order against James Carter II. The Officer conducted a search and determined that there was not an order of protection out against Carter's parents.

On January 14, 2009, James Carter II sought and was granted an ex parte restraining order from the Hartford Family Court against Tiana Notice alleging that Tiana was harassing him. The Court ordered a full hearing on the restraining order application and transferred the case to the New Britain Family Court, where Tiana's restraining order application was to be heard in two days. In Carter's affidavit he requested protection for Jessica Banderas, who, we now know, was not his girlfriend and did not have a relationship with him.

On January 16, 2009, Tiana Notice and James Carter II went to the Family Court in New Britain, and were granted reciprocal restraining orders. The Court documents state, “After the hearing . . . Granted for 6 months by agreement.”

According to the transcript of the hearing, on January 16, 2009, Judge Prestley was the presiding Judge. The Judge placed both Tiana Notice and James Carter II under oath and inquired if they wanted “mutual orders” to which both replied, at first, yes. It is unclear what information the Judge may have had in front of her at the beginning of the hearing that may have led her to believe mutual orders were appropriate. Perhaps Family Relations had met with the parties and devised an agreement of some sort. However,

further on in the hearing Tiana, after learning what was meant by a “mutual order”, requested to “retract” her statement agreeing to a mutual order. In response to Tiana’s request, the Judge inquired whether both parties wanted to “withdraw” their orders and have the orders “dismissed”, to which both parties state “no”. At this point, Tiana explained to the Judge that Carter was sending her emails and text messages, even after the ex parte order against him was issued. In fact, Carter, under oath, admitted to sending messages to Tiana. Carter testified, still under oath, that Tiana was physical with him and sent him messages. When asked by the Judge if he had any of the messages with him, Carter informed the Court he did not. Carter then informed the Court he “just wants to leave and go to work”. Tiana testified and explained to the Judge that Carter has struck her and she wants him to leave her alone. When asked by the Judge if Tiana “ever laid hands on him (Carter) that was not affection”, Tiana replied, “other than to push him away from me, no, Your Honor”. Carter then requested that his mother be permitted to testify. The Judge then stated to Carter’s mother, “Okay, So what’s going on with Romeo and Juliet...” Carter’s mother, Audrey Carter, testified and stated without detail as to time, place, or content, that Tiana hit Carter. Audrey Carter testified at length about a car, the house, and so forth, but offered little if anything to the crux of the issue, which was whether there was an “immediate risk of serious harm.” Tiana, in response to Audrey Carter’s testimony, responded that Tiana had been “following up with the Plainville Police” with regards to emails and texts that were sent to her by Carter. The Judge interrupted Tiana and asked both Tiana and James, “I am not going to see . . .that you’re back together next week?” To which Tiana replied, “Absolutely not.” The Judge then granted mutual restraining orders for a period of six months, with the understanding that if there were no problems, the parties could return and request the order be vacated in three months.

The Judge never inquired of Tiana for clarification of her testimony regarding the involvement of the police. Likewise the Judge did not inquire of Carter about the timing of his ex parte restraining order application, a mere two days prior to Tiana's hearing on the order she obtained almost two weeks prior. Tiana also was the only party to have provided physical evidence of the unwanted conduct to the Court. Tiana also informed the Court that Carter had violated the restraining order as well.

On January 31, 2009, James Carter II went to the Bloomfield Police Department alleging that Tiana Notice had sent him a letter. The item that Carter alleged Tiana sent appeared odd to the officer. It was a picture of Tiana, indicating who she was and requesting that James Carter II call her. The Officer noted in his report that he found it strange that someone would send a picture of themselves to their ex-boyfriend and feel the need to write their name on the picture. Carter, who had dated Tiana, would obviously recognize his ex-girlfriend. The Plainville Officer contacted Tiana Notice and inquired about the letter. Tiana informed the Officer that she was the one being harassed, that she wanted nothing to do with Carter and did not write a letter to him. The Officer sent the letter off to the lab for latent prints to be lifted.

On February 5, 2009, Bloomfield Police Officer Lustrinelli, investigating the allegations from Carter, contacted the Plainville Police Department to obtain information regarding

Tiana Notice's reports against James Carter II. The Officer learned that Tiana had reported Carter was contacting her in violation of the restraining order she had obtained against him. During the Bloomfield Police Department's investigation, the Officer learned that the Glastonbury Police Department was investigating an alleged threat made by Tiana to her former employer. However, the Glastonbury Officers were able to determine that the threat, a letter, was not sent by Tiana Notice, but rather a third party. It was later determined that Carter had sent the letter, impersonating Tiana.

On February 7, 2009, Tiana Notice went to the Plainville Police Department to report that sometime during the evening of February 6, 2009 and the morning hours of February 7, 2009, an unknown perpetrator (Tiana believed the perpetrator to be Carter) had slashed all four tires of her car located in back of her house. The police told Tiana that there was no way to identify who had slashed her tires or to prove that it was Carter.

On or about February 7, 2009, Tiana's father, Alvin Notice, set up a wireless camera to protect her safety and identify the individual who had slashed her tires if he or she returned. The camera pointed to the rear or, rather, the eastern portion of the parking lot of her apartment complex.

On February 9, 2009 Tiana Notice went to the Bloomfield Police Department to provide the officers with her latent prints and two writing samples. In speaking with Officer Lustrinelli, Tiana voiced her frustration that Carter continued to contact her despite the restraining order and that the Plainville Police were investigating additional violations of her restraining order dating back to January 13, 2009.

On February 9, 2009, Plainville Police Officers submitted a warrant application to the Bristol Court, GA 17, to seek an ex parte order to obtain the IP address from the emails Tiana had received, including the emails from January 13, 2009. The warrant application sat, unaddressed in the Bristol States' Attorney's Office, until after Tiana's murder.

On February 10, 2009, James Carter II went to the Bloomfield Police Department to provide a writing sample to the Officers.

On February 13, 2009, during the late morning, while at her place of employment (Post University, located in Waterbury) Tiana Notice received three telephone calls from James Carter II. Tiana spoke with Carter the first time he called (she was unaware that Carter was on the telephone). Carter asked her to drop the restraining order and questioned why the relationship had turned out the way it did. She ended the call after only a few minutes of conversation. The next two calls were immediately terminated once Tiana recognized Carter's voice. Tiana contacted the Plainville Police Department, but was informed that since the violations occurred in Waterbury, she would have to report the violations to the Waterbury Police Department. According to Tiana's close friend, Antoinette Stever, who spoke with her that afternoon, Tiana went to the Waterbury Police Department, but was told to go back to her office and wait for the police to arrive. At around 3:00 pm, when the police still had not arrived, Tiana went back to the Waterbury Police Department

armed with a copy of her restraining order and a written statement of her co-worker, Ms. Sanchez, to provide for the Waterbury Police².

Tiana Notice called her mother, Kathy Lewis, shortly after leaving the Waterbury Police Department. During the conversation Tiana told her mother she provided the Waterbury Police Department with a copy of her restraining order and Ms. Sanchez provided the Waterbury Police Department with a written statement. She told her mother that she advised the Waterbury Police Department that the Plainville Police Department had a copy of her restraining order. Tiana voiced her frustrations to her mother, stating that Officer Leon told her that there was not an order on file and that he could not help her. Tiana told her mother that she said to Officer Leon, "What is it going to take before you guys do something! "When I am dead!"

According to the Waterbury Police Department reports, on February 13, 2009, at 2:52 pm, Tiana Notice came to Waterbury Police Department to report that James Carter II had violated the restraining order she had against him. The Officer detailed in his statement, that Tiana informed him that she was employed at Post University, and while at work between 12:00pm and 1:00 pm James Carter II contacted her and asked her to drop the restraining order because he was having trouble obtaining a job due to the order. After the telephone call, Tiana told her receptionist, who had transferred the call from Carter to Tiana, that if Carter called again to not transfer the call to her. Tiana then explained to her receptionist that she had a restraining order against James Carter II and did not want to speak with him. Tiana provided the Officer with her copy of the restraining order. There is no mention in the Waterbury Police Department's reports of Tiana's first visit to the Department.

According to the report of Officer Leon of the Waterbury Police Department, he confirmed the order through the registry. Officer Leon mistakenly believed the order was from New Britain. He contacted the New Britain Police Department and spoke with the desk sergeant who told Officer Leon that New Britain did not have a copy of the order at their Department. Based on the New Britain Police Department's inability to fax a hard copy of the order, Officer Leon informed Tiana Notice that he could not confirm the existence of the order. He further stated that he would "file" the report and forward it to the DB (Detective Bureau). According to Officer Leon's report, he provided Tiana with a victims' rights card and offered her shelter. He notes in his report that Tiana was "very upset".

According to the report of the Waterbury Police Department, approximately an hour later, the Waterbury Police Department received a call from the Plainville Police Department, who informed them that they had a copy of Tiana's order and would fax it to the Waterbury Police Department.

² The Waterbury Police Department documented times of interactions with agencies and individuals which do not coincide with the times of interactions reflected in the reports with Plainville Police Department and Kathy Lewis.

After receiving the faxed order, Officer Leon contacted Ms. Sanchez at Post University, and confirmed with her that James Carter II contacted Tiana Notice. Officer Leon detailed in his report that Ms. Sanchez told him that Carter telephoned Tiana at work and requested to speak with her on three occasions. Ms. Sanchez informed the Officer that she transferred Carter's calls to Tiana two out of the three times. Officer Leon, in turn, telephoned Tiana on her cell phone and left her a voicemail. In his report, the Officer documents that in his voicemail message he informed her that the order was from Plainville, not New Britain, as she had told him. The Officer further documents that he informed Tiana, in the voicemail, that he was going to contact Bloomfield Police Department and see if they could locate James Carter II. According to the Officer's report, the WECC 911 operator was to contact the Bloomfield Police Department and attempt to locate Carter at his address. According to the Bloomfield Police Department's record, Waterbury Police Department instructed them to reach out to James Carter II, and communicate to Carter to contact Officer Leon. The Bloomfield Police Department went to the residence of Carter, but he was not there. The WECC 911 operator informed Officer Leon that the Bloomfield Police were unable to locate Carter at his address. Officer Leon concluded his report by stating he left the report for the DB (Detective Bureau) for further investigation.

Officer Pelosi, of the Waterbury Police Department, authored an incident report as well, and stated that Officer Leon inquired what he should do if a person has a restraining order from another town and the order is violated in Waterbury. Officer Pelosi informed Officer Leon that he has to confirm the order with the town where the order originated prior to taking any action.

At approximately 6:58 pm on February 13, 2009, Officer Pelosi, again of the Waterbury Police Department, stated that Tiana Notice's mother, Kathy Lewis, telephoned the Waterbury Police Department. Officer Pelosi indicated that he transferred the call to the "Communications Department" (WECC). Once the call was transferred to the WECC, Sgt. Dethlefsen spoke with Kathy Lewis. Sgt. Dethlefsen documented in his report that he had been transferred the call from Kathy Lewis, but had to place her on hold several times to get up to date information from the officers (the same officers who had transferred the call to WECC). Sgt. Dethlefsen indicated in his report that he told Kathy Lewis that the Waterbury Police could not confirm the existence of the restraining order, because they did not have a "hard copy" of the order. According to the report of the "B Platoon Commander Memorandum" by Captain Sherman McGrew, Sgt Dethlefsen told Tiana's mother if she had a way to verify the order, let the police know.

According to the report of Sgt. Dethlefsen, at approximately 7:30 pm he received a call from the Plainville Police Department inquiring whether there was confusion regarding a restraining order Tiana Notice had against James Carter II. After a brief conversation, Sgt. Dethlefsen informed the Plainville Police Department that Officer Leon had enough information to seek an arrest and he did not need Tiana Notice to come to the Waterbury Police Department. Sgt. Dethlefsen indicated in his report that he informed Officer Leon to "follow through with it with a possible arrest." The Waterbury Police Department,

according to reports, then requested the Plainville Police Department to provide them with the phone number for Tiana so that the Waterbury Police could contact her.

According to Kathy Lewis she telephoned the Waterbury Police Department at approximately 7:00 pm and asked to speak with the officer in charge. She spoke with Sgt. Dethlefsen, who explained to her “we’re under staffed, it’s a long weekend and we have other cases to deal with. Your daughter should come back Tuesday and we’ll see what we can do”. Tiana's mother responded by stating to Sgt. Dethlefsen, that they needed to do something because Carter was “escalating” and that if anything happened to her daughter, she would “hold them responsible.” Kathy Lewis also called the New Britain Police Department and spoke with the Officer in charge, Sgt. Christrys³, who confirmed that Plainville and Bloomfield would in fact have copies of the order as those are the residences of Tiana and Carter.

Later that same evening Kathy Lewis had another conversation with her daughter. Tiana told her mother that when she came home from the Waterbury Police Department, she found a letter from Carter at her door. Kathy told Tiana to go to the Plainville Police Department to report the new violation. After leaving the Plainville Police Department, Tiana and her mother spoke again. Tiana informed her mother that she spoke with a Sgt. Seer⁴ at the Plainville Police Department who told her he was sorry for all the trouble she was experiencing, and that he has a daughter Tiana’s age. He informed Tiana that the Plainville Police Department would investigate the newest violation and get back to her. Tiana never heard back from Sgt. Seer.

At approximately 7:43 pm on February 13, 2009, according to the report of the Plainville Police Department, Tiana Notice came to the Police Department to report that when she arrived home she found a letter inside her apartment that appeared to be from James Carter II, in violation of her restraining order against him. The Officer, in his report, indicated that he was unable to confirm who had written the note, although he attempted to contact James Carter II, and was unable to reach him. The note stated:

“Tiana Forgive me I never cheated on you. And if you don’t believe me read Psalms 32 PLEASE If I’m lying may GOD take my life I never ever cheated Forgive me for everything else I have Done”

The note was clearly the words of a desperate individual. Additionally, while at the Plainville Police Department, Tiana requested assistance with enforcing her restraining order against James Carter II, which had occurred in Waterbury earlier that day. Tiana explained to Plainville Police Sgt. Mullaney, the Waterbury Police Officers had issues with the order and in determining whether it was valid. The Plainville Police Department then faxed a copy of the order to the Waterbury Police Department. According to the Plainville Police Department, at 10:55 pm Plainville Police Officer Mullaney sent a faxed copy of Tiana Notice’s restraining order against James Carter, as well as James Carter’s restraining order against Tiana Notice, to the Waterbury Police Department, to the

³ This is the name Ms. Lewis recalled being provided by the police department.

⁴ This is the name Ms. Lewis recalled Tiana mentioning to her.

attention of Sgt. Nelson. According to Tiana's friend, Antoinette Stever, Tiana was told by Plainville Police Department, that the Waterbury Police Department wanted her to return the following week to give a statement because it was a long weekend and they were short staffed. Officer Leon alluded to this in his report, for he notes that Tiana did not have to return to the Waterbury Police Department to give a statement, once he had a copy of the order.

On February 14, 2009, at approximately 8:00 am Kathy Lewis again contacted the Waterbury Police Department and spoke with a Sgt. Sheehan. During this conversation Kathy stated to the Officer, she “did not want her daughter to become a statistic and that if anything happens to her daughter over the weekend, she will make them pay.” Sgt. Sheehan replied, “Nothings going to happen to her over the weekend”.

On February 14, 2009, Tiana Notice checked her email and discovered two email messages from James Carter sent the day before, February 13, 2009. The emails originated from James Carter’s email account. One of the new emails stated in part:

“God told me to write so please don’t tell the cops...I’m going through a life or death situation right now and you are the only one I can talk to . . . You ever been close to death or thought you were going to die . . . If I am lying may the Lord strike me down and kill me tomorrow. . . . my dad said he had a dream that our neighbors gave us 2 tomb stones at our house . . .

“in dire straits situation T . . . please help me.”

“Get rid of the restraining order”

Once Tiana discovered the emails, she contacted her mother, who told her to print out the emails and return to the Plainville Police Department to report the violations. On February 14, 2009, at 4:35 pm, Tiana Notice returned to the Plainville Police Department to speak with Officer Mark Connoy regarding two new emails she had received on February 13, 2009, in violation of the restraining order she had against James Carter II.

Tiana was on the phone with Robert Dennis, a friend, when she went to the Plainville Police Department and spoke with Officer Connoy. According to Robert Dennis, who listened into the conversation, Officer Connoy told Tiana that the Plainville Police were going to arrest James Carter because of the violation of the restraining order.

According to the report of the Plainville Police Department, at or about 7:50 pm, after learning of the emails from James Carter to Tiana Notice, Officer Connoy called the number referenced in the email sent to Tiana. The number turned out to be that of James Carter II. Officer Connoy detailed in his report that he left a voice message for Carter to call the Officer back.

On February 14, 2009, at 7:59 pm, James Carter II returned Officer Connoy’s telephone call. During the conversation Officer Connoy informed Carter that the Officer will be

conducting a full investigation and if the Officer determined Carter was responsible for sending the emails, that the Officer would seek an arrest warrant for Carter.

On February 14, 2009, at 9:41 pm, the Plainville Police Department received a 911 call from Tiana Notice. Tiana told the 911 dispatcher that she had been “stabbed to death” and that her “ex-boyfriend” stabbed her twenty times. Plainville Police Officers responded to the scene located at 140 Whiting Street, Plainville, where they found Tiana. She was discovered on her rear exterior deck suffering from multiple stab wounds. Her neighbors were with her on the deck. Tiana was later transported to Hartford Hospital, where she succumbed to her injuries (Hartford Hospital, 11:45pm).

The Connecticut State Police, while conducting their investigation, located a wireless camera that Tiana's father, Alvin Notice, had set up to protect her safety. The wireless camera pointed to the rear or east parking lot of her apartment. Additionally, the State Police Troopers located a file folder in Tiana's car with a copy of the emails (although the report describes them as texts) Carter had sent her as well as a copy of her restraining order against James Carter II.

On the date of February 14, 2009, the Plainville Police Officers' ex parte warrant to obtain the IP address for the origin of emails to Tiana in connection with the incidents reported back on January 13, 2009, was still pending.

Additionally, while speaking with the family of Tiana Notice, I was informed that the individuals responsible for notifying Tiana's immediate family misinformed the family that Tiana's injuries were not life threatening, when in fact, Tiana had already passed away. This misinformation greatly impacted the family.

On April 7, 2009, two months after Tiana Notice was murdered, the Plainville Police Department submitted a warrant for the arrest of James Carter II, for two counts of Violation of a Restraining Order and one count of Harassment 2nd Degree, for the events of February 13, 2009.

Additionally, the Plainville Police Department submitted a second warrant, on the same day, for three counts of Restraining Order Violation, three counts of Harassment in the 2nd Degree, One count of False Statement and one count of Interfering with an Officer, stemming from the actions of James Carter II from January 10, 2009 through January 29, 2009.

CRIMINAL HISTORY OF JAMES CARTER II

On December 27, 2002, James Carter II is arrested for Criminal Mischief in the 3rd Degree, Threatening 2nd Degree and Breach of Peace in the 2nd Degree by the Windsor Locks Police Department.

On January 10, 2003 James Carter II applies for Accelerated Rehabilitation program.

On January 31, 2003, James Carter II appears in Enfield Court, GA 13 and withdrew his application for Accelerated Rehabilitation Program. The State's Attorney's Office filed substituted information and charged Carter with Creating a Public Disturbance which he pled guilty to and ordered to pay a fine of \$50.00 (which was remitted). Judicial records state that Carter was also to provide the judge with a copy of his next report card. For reasons unknown, the State's Attorney permitted three serious charges to be substituted for a simple infraction, merely one month after the incident. Equally disturbing is the Judge's failure to intercede with Carter at this early juncture where Carter would have been most likely amendable to treatment and/or rehabilitation, such as the family violence education program, anger management and/or evaluation for further counseling. At this time, Carter is twenty-two years old. Again for reasons unknown, it appeared that Carter was being viewed as a "youthful offender" with having to provide his next report card to the judge, rather than as an adult Carter beginning his criminal dossier.

On December 27, 2003, James Carter II was stopped and cited for going Unreasonably Fast, by the Hartford Police Department.

On August 12, 2004, James Carter II was sentenced on the motor vehicle violation and ordered bond forfeited in the amount of \$25.00.

On September 6, 2004 James Carter II was stopped and charged with speeding over 70 mph by the CT State Police, Meriden. Approximately three months later, on December 17, 2004, James Carter II was cited again by the Windsor Police Department for traveling unreasonably fast and ordered bond forfeited in the amount of \$50.00⁵.

During 2005, James Carter II was charged with an additional three separate motor vehicle violations within the city of East Hartford. The reports of these incidents indicate that Carter, on two out of three of the motor vehicle stops, evaded the police and in one case the officers reported he fled on foot for approximately three miles. These incidents took place respectfully on 7/31/2005, 8/1/2005 and 10/22/2005. Additionally, these motor vehicle violations occurred during the same time period when Carter had pending charges for domestic violence. It is not clear whether the Manchester and the Enfield GA courts were aware of the simultaneous charges.

On June 10, 2005, James Carter II was arrested for breach of peace. Consequently,

⁵ There are also, within Carter's history, several failures to stop at a stop sign and driving while on a mobile phone during the various years which were left out of the report.

on June 13, 2005, Carter was arraigned for Breach of Peace and his, at the time girlfriend (1), was granted a protective order against Carter.

On June 21, 2005 James Carter II was accused of violating the protective order by continuing to contact his ex girlfriend (1), the named victim of the June 10, 2005 criminal matter. Carter is not arrested for Violation of a Protective Order until August 1, 2005.

On July 30, 2005 James Carter II was arrested and charged with Interfering with an Officer/Resisting, Reckless Endangerment, Reckless Driving – 2 Counts, Illegal Racing on a Highway, Disobeying an Officer's Signal, out of the city of East Hartford.

On August 26, 2005, James Carter II receives a bond forfeitures disposition in the amount of \$100.00, on the traveling 70 mph charge from December 17, 2004.

September 20, 2005, James Carter II failed to appear in court in the Violation of a Protective Order criminal matter. Carter was arrested for Failure to Appear 1st and released on a \$20,000 bond.

On December 14, 2005 James Carter II appeared in Hartford Superior Court, GA 14, and the State's Attorney filed substitute information charging Carter with Failure to Appear 2nd, which replaced the original charges of Violation of a Protective Order and Failure to Appear 1st. Carter was sentenced to one year, suspended, two years of probation. Carter once again was not held answerable for his violent behavior, but rather, went from facing two felonies down to one misdemeanor.

On January 3, 2006, James Carter II pled guilty to Breach of Peace (June 10, 2005 incident) and was sentenced to six months, suspended, one year probation, with the condition that he attend anger management and parenting classes, work full time and provide support for his minor children. Carter's sentence was to run concurrent with his other sentences. On the same date, January 3, 2006, Carter also pled guilty to reckless endangerment and interfering with a police officer/resisting and was sentenced to one year, suspended (for each count to run consecutive to each other but concurrent to his other cases), 2 years of probation. The Reckless Driving charge was nolle'd.

On January 8, 2007 James Carter II was arrested for Assault 3rd; Criminal Mischief 3rd; Threatening 2nd and Disorderly Conduct. A protective order was issued on behalf of his at the time girlfriend (2). This arrest caused Carter to be charged with Violation of Probation in both the Manchester criminal matter and the Hartford criminal matter.

On September 14, 2007, James Carter II's at the time ex-girlfriend (2) sought and obtained a restraining order against Carter. In her affidavit she reported that Carter had threatened to kill her numerous times, threatened to harm her family and friends, threatened to assault her daughter, and he also threatened to damage her car. She reported that Carter had been physically abusive during the relationship and that his behavior had been escalating for approximately three months.

On January 11, 2008, Carter pled guilty to Assault 3rd and was sentenced to five months in jail. The Criminal Mischief 3rd; Disorderly Conduct; and Threatening 2nd charges were nolle'd. Also on January 11, 2008, Carter admitted to the Violation of Probation (Hartford) and his probation was revoked. Carter was sentenced to five months in jail, to run concurrent with his other sentence.

On January 16, 2008, Carter admitted to the Violation of Probation (Manchester) and his probation was revoked. Carter was sentenced to four months in jail, to run concurrent to his other sentences.

ANALYSIS OF THE DELIVERY OF SERVICES

Pursuant to C.G. L. 46a – 13a, the OVA is mandated to “evaluate the delivery of services to victims by state agencies and those entities that provide services to victims”. The following is an analysis of the delivery of services provided to Tiana Notice when she requested assistance in dealing with James Carter II and his escalating behaviors.

Waterbury Police Department:

In summarizing the response by the Waterbury Police Department⁶, there are essentially three distinct practices or actions, which prevented the Department from effectively responding to the needs of Tiana Notice: (1) misinformation regarding the method of authenticating a restraining order; (2) issues around what constitutes “probable cause” in relation to a violation of a restraining order, and an officer’s responsibility when “probable cause” has been established in these cases; and (3) sensitivity and understanding the complexities when interacting with a crime victim.

The laws defining “probable cause” are fairly clear; and yet for many “probable cause” is still a moving target on the spectrum of reasonableness. It is not always easy for an officer to determine when he or she has met the probable cause threshold. Probable cause has been defined as “sufficient facts to lead a reasonably prudent person to believe a crime was committed and the individual to be arrested has committed a crime.” *State v. Conley* 31 Conn. App. 140 (1993). Law enforcement officers are mandated to arrest in family violence matters once they have determined there is probable cause based on speedy information. There seems to be a disturbing trend in Connecticut. Law enforcement officers have been conditioned to mistakenly believe they can only arrest in situations when the officer is on site at a domestic violence incident. In all other scenarios, Connecticut officers seem to have been conditioned that it is preferable to seek a warrant in order to arrest for a violation of an order of protection. Legally speaking, an officer *shall* arrest an individual, based upon probable cause, as long as the probable cause is founded upon “speedy information.” Speedy information is defined as “information received during the course of or promptly after commission of the crime and is of such character that the officer has reasonable grounds to accept it as true.” (See, *Police Response to Crimes of Family Violence, Model Policies, Procedures and Guidelines, revised to include all amendments through 2006*, p. 13). According to the model policies, whether such information constitutes “speedy information” depends on two considerations:

1. How proximate in time the information is to the crime;
2. Whether the officer was justified in accepting the information and relying on it. (It is the officers’ responsibility to check the truthfulness, reliability, and basis of knowledge of the person providing the information, even if that person is a victim) See, *Model Policies* p. 13.

⁶ It should be pointed out that the Waterbury Police Department’s reports are all dated after February 14, 2009, after Tiana was murdered.

Additionally, when a felony has been committed, the officer is permitted to arrest without a warrant. By law a violation of any order of protection is a felony. Thus once the officer has established there is probable cause based on “speedy information”, he or she can arrest the offender for the violation of a restraining order without a warrant. “Members of the Division of State Police within the Department of Public Safety or of any local police department or any chief inspector or inspector in the Division of Criminal Justice shall arrest, without previous complaint and warrant, any person who the officer had reasonable grounds to believe has committed or is committing a felony.” G.G.S. § 54-1f (b)

In order to establish “probable cause” in cases of a violation of a protective order, which encompasses restraining orders, orders of protection, standing orders of protection and foreign orders protection, there are three elements that must be met:

1. Knowledge of the existence of the Order or “Notice”: Was the offender provided “notice” that an order was in effect? This in a mute point in Orders of Protection issued from the Criminal Courts because the offender is placed on notice of the existence of the order at his or her arraignment. In cases of restraining orders, the officer can determine if there was a hearing from the order or ask the offender if he or she is aware of the order and its conditions. According to Jury Instruction 2.3-3 “A person acts “knowingly with respect to a circumstance when (he/she) is aware that such circumstances exist.” Notice can be established by asking the offender if he or she is aware of the order. See *State v. Culver*, 97 Conn. App. 332, 340 cert. denied, 280 Conn. 935 (2006). Additionally notice can be established by reviewing the order to establish if the order has had the 14 day hearing and was extended beyond the 14 days. This would establish the offender had notice of the order, since the hearing requires notice prior to the extension of the order.
2. Is the Order still valid – AUTHENTICATE. The Order can be authenticated in any ONE of these methods:
 - Ask the victim to produce a copy of the order (the court should have provided a copy to the victim at time of or shortly after issuance, however, the victim may not have received a copy).
 - Check with the police department in the victim’s town of residence (or, if different from the victim’s, the offender’s town of residence) to verify that a copy is on file. (The victim may also deliver or request to have delivered a copy to police headquarters in the town where s/he is employed.) **Check with the Connecticut protection Order Registry-File 20**
 - During business hours, contact the clerk of the court in the judicial district or geographic area where the order was issued.
 - Ensure that both parties’ names are on the order, and, if a RO, that the order has not yet expired. See, *Model Policies* p. 19.

3. Did the Offender violate one of the conditions of the order? Is there evidence that the Offender violated the conditions of the order?

Once these three elements are met, the officer, if responding to speedy information, must arrest.

Law enforcement officers must recognize that the violation of a restraining or protective order is unlike any other criminal charge and always poses a potential threat to the protected party. First, the charge of violation of an order of protection stands apart from any other charge in that (1) the court has determined there is a viable threat against a named person(s) and (2) the offender has been pre-warned of the consequences of engaging in certain behaviors and that engaging in those behaviors WILL lead to an arrest.

In this case, Officer Leon, of the Waterbury Police Department, learned from Tiana Notice that James Carter had contacted her. The officer was able to verify that Carter had contacted Tiana through a co-worker at Tiana's work. The Officer received this information of the violation quickly after James contacted Tiana. Unfortunately, Officer Leon became entangled in a web of confusion around how exactly to authenticate the order. As stated above, there were three viable methods to authenticate Tiana's Restraining Order, per the *Police Response to Crime of Family Violence; Model Policies, Procedures and Guidelines*, Authored in collaboration with Police Officers Standards and Training Council (POST), Office of the Chief States' Attorney and Connecticut Coalition Against Domestic Violence (CCADV). Tiana's order could have been authenticated by: (1) asking Tiana for a copy, or (2) by contacting the police department where Tiana resides, or (3) since Tiana came to the Waterbury Police Department during regular business hours, contacting the clerk of Courts from where the order originated (New Britain Family Court). The Officer can and did confirm the order's validity through Connecticut Protection Order Registry – File 20. In this case, the Officer did not recognize that Tiana's copy of the order, coupled with a check of the registry, was sufficient to authenticate the order. To further complicate matters, the Officer, when communicating with Tiana Notice, was not clear regarding what information he needed to obtain from Tiana, in order to secure a faxed copy of the order. The Officer's misunderstanding becomes even more apparent, because when Tiana informed the Officer that the Order was obtained in New Britain, the Officer did not understand that the "copy" of the order would not be found in the town or city of the granting authority but rather the residence of the protected party. The Officer either was not aware of the process involved in granting a restraining order, or was misinformed as to where to locate an order for verification purposes. Therefore, the officer erroneously contacted the New Britain Police Department looking for a hard copy of the order. In the end, New Britain Police Department did not have a copy of the order because neither the protected party nor the respondent of the order resided in New Britain.

Unfortunately, Officer Pelosi and Leon were not aware of the various manners in which they could have authenticated the order. Rather, they mistakenly relied upon a narrow

interpretation of the method to authenticate an order of protection, one that limited them to only accept a faxed copy from the “originating” Department.

Assuming for the moment that the Officer understood that the hardcopy of the order would be located in the town or city of the victim’s residence, he should have asked Tiana “where do you reside”. Had he done so, the Officer would have learned that Tiana lived in Plainville, and, therefore, the Plainville Police Department had a copy of the order. The question remains, whether Office Leon understood that the residence of the victim rather than the town or city of the issuing Court would have a copy of the order.

In this case, the Officer was in a position to make an arrest because it was clear that he possessed probable cause which was based upon “speedy information” that James Carter II violated the order of protection, a felony in Connecticut. Therefore Officer Leon should have taken measures to arrest James Carter II on February 13, 2009.

From reviewing the report of Officer Leon, there is concern surrounding his interactions with Tiana. A law enforcement officer, who has been educated on the inner workings of how the criminal justice system operates, should be cognizant that a crime victim may or may not understand the system. A crime victim, such as Tiana, who had been harassed for over six weeks, should not be expected to fully understand what an officer needs to pursue a violation of the order of protection she or he has. Rather the officer should expect the crime victim to not clearly understand the criminal justice system. The officer should assume and anticipate confusion on the part of a victim. The officer should, from this vantage point, ask questions to elicit answers that will assist the officer in protecting the crime victim to obtain safety.

The manner in which Officer Leon interacted with Tiana, which, if his report is any indication, was at best condescending, and some may even interpret him to be hostile. For example, the Officer, as indicated above, made a point to let Tiana know the order of protection was “from” Plainville (which in fact was not true) in his voice mail message to her, insinuating that she gave him the wrong information. Secondly, he further criticizes Tiana for, as the Officer states, inferring that Carter had called once, when Tiana’s secretary said he called three times. Yet it is not clear what if any information the Officer obtained from Tiana when she came in, because he had to ask the *Plainville Police Department* for her telephone number. A standard practice in reporting crime, would have clearly dictated that the Officer should have taken down, at the very least, Tiana’s telephone number when she came in to report the violation. Instead of criticizing Tiana, the Officer may have wanted to clarify his perceived discrepancy of facts with Tiana, although at this point the Officer had confirmation that Carter violated the order and should be focusing on arresting Carter. This does not happen. The Officer seemed more inclined to find fault in Tiana’s statements, then to pursue the felony violation of the restraining order. Additionally, it should be pointed out that the Officers’ reports (all of them) were authored *after* Tiana was murdered.

When a law enforcement officer encounters a victim reporting a violation of an order of protection; it would be prudent for the Officer to conduct a criminal history check to

determine what the alleged offender's history entails. In addition, the officer should inquire of the victim what if any charges may be pending and what if any history of violence or threats the offender has had with the victim. Officer Leon, at least in so far as the incident report indicated, appeared to be processing Tiana's complaint of a violation of a restraining order in a vacuum, unaware of the numerous incidents that had transpired within the past thirty days and equally unaware of Carter's history. The Officer should have conducted a check of Collect to determine the history of James Carter II to assist the Officer in analyzing the threat level to Tiana. Had he done so, he would have seen a history of violence and domestic abuse, which would have alerted him to the safety concerns regarding Tiana Notice.

The contacts the Waterbury Police Department had with Kathy Lewis, Tiana's mother, were dismissive and trivializing, which allude to a mind set of the Officers involved that is problematic to the protection of crime victims and is in stark contrast to the basic understanding of how the police should interact with the community, especially the parent of a victim of domestic violence seeking assistance. The OVA recognizes that individuals who work in the field of criminal justice may become desensitized to the daily threat presented to domestic violence victims; however, despite the existence of tools such as lethality assessments, it still remains difficult to determine which offenders may become lethal. Thus when the victim of domestic abuse and/or his or her family state that they are afraid for their safety⁷ we who serve in the criminal justice system must stand up and hear their cry. And, more importantly, take steps necessary to promote safety and ensure the protection of all victims. Although it is not easy to work in a field which demands that you always assess which cases are lethal and be on notice at all times to identify the signs of danger, the price that is paid when the system ignores the cry of a victim is not one we can afford to pay.

Waterbury's Internal Investigation:

Captain Sherman McGrew authored a "B Platoon Commander Memorandum" dated February 17, 2009, which erroneously stated that the Waterbury Officers did not violate their policies. The first paragraph states that the officer is to verify the protective order and see if the victim possesses a "valid copy". In this case Tiana Notice had in her possession, at all times while reporting to the Waterbury and Plainville Police, a hard copy of her restraining order. Capt. McGrew instead focused on the issues surrounding the Court's failure to provide Waterbury (Tiana's place of work) with a faxed hardcopy of the Order, and yet at all times Tiana Notice had a copy in her possession. The Waterbury Police Officers involved in this case seem to be unaware that there are several methods through which the police can verify an order of protection, including simply asking the victim if she or he has a copy. However, a trend has emerged over the years, which spans across the state, regarding the authentication of orders of protection. It is unclear from where this practice originated, but by and large most police departments will not accept an order of protection from the victim, confirmed through the registry, as sufficient to arrest. Rather police officers are requiring the police department where a

⁷ And this includes the victim of domestic violence who may not recognize the escalation or has been abused (physically, emotionally, or verbally or a combination of abuse) to such an extent that they are no longer able to ascertain their own level of threat.

victim resides to fax over a copy. This only serves to place domestic violence victims in further danger.

As stated above, it seems odd that the Waterbury Police did not obtain Tiana's phone number when she came to the police station to report the violation of the order. It would appear that obtaining simple contact information would be essential to taking an incident report. In reviewing the documents provided from Waterbury Police Department, the reports contain contact information from Tiana. However, the reports were generated and/or completed on February 18, 2009, four days after Tiana was murdered. Therefore, what information the Waterbury Police Department obtained from Tiana upon her first contact with the Department is in question, especially since there is evidence they requested her phone number from the Plainville Police Department.

At the conclusion of Sgt. McGrew's report, he stated "at no time was there ever an indication given by Notice that there were any threats made against her by Carter. This case, at the time it was investigated, was ***a routine violation of a restraining order, by phone, of a respondent asking the plaintiff to rescind a restraining order so he could get a job.***" A violation of a restraining order is NEVER a "routine matter". The very nature of a violation of an order of protection stands apart from all other crimes. In order for a Court to grant the issuance of a restraining order, the Court must find that there is (1) an immediate viable threat against a named person (the complainant), (2) that the person whose liberty is subjected to limitation (the respondent) possesses that viable threat to the protected party, and (3) as a result, the Court has ordered the respondent to refrain from certain behaviors, and the respondent is **BEEN WARNED** by the COURT, that if he or she violates the order, **THEY WILL BE ARRESTED**. Sgt. McGrew's attempt to link Carter's danger level to Tiana's demeanor or the "nature of the violation" is misplaced and evidences a fundamental misunderstanding of domestic violence at its core. The danger level of an offender can only be determined by gathering historical information from the victim, coupled with information from sources available to the officer, such as through Collect. Police officers are in a unique position. They have access to criminal history information that may or may not be in the hands of the victim, and that may assist in determining the level of threat against the victim. A victim of domestic violence who has continually reported numerous threats and violations of her order of protection, with little or no response, (as was the case with Tiana), eventually begins to focus on the lack of police response, rather than evaluating his or her threat level, due to the constant re-victimization by the system and the system's inability to hold the offender accountable. Therefore, Sgt. McGrew's conclusion that "there was no indication whatsoever at any time in our investigation that Carter was on the verge of performing a violent act" is more a result of the Officers' neglecting to investigate the facts available to them as police officers, than to the "lack of evidence of a threat of violence" an element not required as a precursor to arrest for violation of an order of protection. Tiana was presenting information to the Officer of a continued violation of the order.

Regarding Sgt. McGrew's "B Platoon Commander Memorandum", also dated February 17, 2009, he seems to not understand, why perhaps a restraining order or protective order

may not include the victim's residence or place of work. Many domestic violence victims may choose to conceal their work or residential address from the offender and thus not include these addresses on the order of protection. Additionally, Sgt McGrew neglected the availability of other means to authenticate an order of protection, such as through the registry or from a hard copy in the possession of the victim, as was the case here. The victim is informed that she or he is to maintain a copy of the order with them at all times in the event of a violation. The very first visit from Tiana Notice provided sufficient information for the Officers to establish probable cause that the restraining order was violated - Tiana had a hard copy and the order was confirmed through the registry. Thus the order was verified through two separate methods, both of which are sufficient alone to establish the validity of the order of protection. Additionally, the Officer confirmed that James Carter II had in fact contacted Tiana Notice at work, a violation of the no contact portion of the order, which means there should have been an arrest, without the necessity of a warrant. It was then the responsibility of the Waterbury Police Department to locate and arrest Carter on February 13, 2009 for the violation of the restraining order or seek the assistance of the police in the town of Carter's residence to arrest him.

Plainville Police Department Response:

In summarizing the Plainville Police Department's response to Tiana Notice, two issues emerge. First is the state of their police policies and procedures at the time of this incident. Second is the response to a violation of a protective order (a felony) when there is both probable cause and speedy information.

When the OVA requested the policies and procedures for Plainville Police Department, the OVA was provided with policies dated from 1981, over thirty years old, which reflected a completely different environment involving domestic violence than today. Although the policy was dated from 1981, the policies had appeared to have been updated for approximately ten or so years, since some of the language of the policies were more recent than 1981. Although some of the policies were updated to about the mid-90s, they were still not sufficient. Since that time the OVA alerted the Plainville Police Department of the outdated policies and have been assured that new and updated policies have been implemented.

The Plainville Police Department was in the unique position to observe James Carter II's behavior from the beginning and observe his pattern of escalation. Officers of the Plainville Police Department first came in contact with Carter II on or about January 4, 2009 and six weeks later, by February 13, 2009, Carter II had clearly deteriorated. His attempted contacts with Tiana were more direct and desperate, quoting scriptures and begging Tiana for reconciliation.

When Tiana came to the Plainville Police on February 7, 2009 to report her slashed tires, the officers simply dismissed her concerns, claiming there were no witnesses. However, at the very least, the officers could and should have investigated the incident. The officers could have interviewed Carter II and inquired of his whereabouts the night prior, and could have questioned him as to whether he in fact slashed her tires. Although it is

not an easy case to investigate, the crime, slashing ALL of her tires, was an intentional act and required law enforcement action.

One of the issues that emerge from the facts of this investigation is that law enforcement officers in Connecticut are conditioned to seek warrants for arrest based upon, not probable cause, but rather, an elevated standard, and in some cases that standard has been articulated to the police to be “beyond a reasonable doubt”. In this case the, Plainville Police Department, specifically Officer Barrett, was in the midst of conducting a thorough investigation into the violation of Tiana’s restraining order stemming from the incidents on or about January 13, 2009. In fact, he applied for an ex parte warrant to obtain the IP address to determine the owner of the email account and therefore, the author of the emails. From the perspective of someone not familiar with Connecticut’s practice, Officer Barrett’s investigation seems elongated since as an Officer he is only required to make a determination of “probable cause”. However, having worked in the state of Connecticut for a period of time and having had the experience of speaking with many police officers, it is clear that Officer Barrett was responding to a long established pattern in Connecticut whereby the States’ Attorney’s Office requires law enforcement to obtain an elevated standard of proof prior to the submission of a warrant for arrest. Thus, even though Officer Barrett arguably had achieved probable cause by the end of January, his experience dictated that he must fully and completely investigate the violations of January 13, 2009; essentially preparing the investigation for trial upon the warrant application.

This pattern is prevalent across the state and causes the timely arrest of an offender to be delayed. The States’ Attorneys, the Chief Law enforcement Officers of the state, by requiring this standard, are placing victims in danger. This is equally true in cases of drunk driving, where even though the police have probable cause at the scene of an accident⁸ the officers will still conduct a lengthy investigation well beyond probable cause, sometimes up to nine months or a year, prior to applying for an arrest warrant for arrest. The problem is that during those months of investigation the offender is still at large with no supervision of release and endangering either a named victim in cases of domestic violence or in drunk driving cases, the community at large.

However, if police are to swiftly respond to violations of orders of protection, then they must be free to arrest on site and, when that is not possible, on a warrant based upon probable cause. This issue regarding the statewide pattern of requiring more than probable cause, has seemingly evolved over the years, and has resulted in the conditioning of officers to require a higher standard prior to seeking a warrant. Despite the reality that every States’ Attorney’s Office has on staff an Investigator, to obtain additional evidence for preparation of a case for trial (such as in this case where there was a need for an ex parte order for the IP address) because of this elevated standard, the patrol officers are required to complete these additional investigative tasks. This only delays arrests and allows for elongated investigations, while placing crime victims in

⁸ Clearly the probable cause standard based on “speedy information” prong can often be met with an estimate of speed, driving in the wrong lane, along with the presence of alcohol observations to secure an on the sight arrest for drunk driving, and is done in almost every state.

danger. The officers are in an untenable situation. They must act swiftly to protect the victim and/or public, and yet must uncover every stone, deflate all possible and imaginable defenses, essentially preparing the case for trial, prior to approval by State's Attorneys. Therefore, as a state we cannot ask the police to complete arrest warrants based on probable cause, unless and until the States' Attorneys agree to sign warrants based upon probable cause. That does not mean the investigation stops at that point, it just means that the offender is arrested, held accountable, and placed on notice that his or her actions are being monitored now by a Court of law. Additionally this provides the domestic violence victim with one more obstacle in the path between the offender and the victim and for the drunk driver, a likelihood of a license loss near and in close proximity of the motor vehicle offense – both situations only serve to protect the public.

A secondary issue, is the preference for a warrant as opposed to an on site arrest. This seems to have also factored into the responses from Waterbury and Plainville Police Departments. With regards to Waterbury, Officer Leon was reluctant to seek the immediate arrest of Carter, despite having obtained sufficient information to effectuate an arrest. With the Plainville Police Department, Officer Connoy, again, rather than arresting Carter II, appears (from the Officer's call to Carter II) (which will be addressed further in the report) he decided to "investigate" the violations. It is not clear what if any further information would have been uncovered during an investigation of the letter and emails to Tiana by Carter II. Although the OVA is cognizant of the concerns often voiced by law enforcement officers regarding liability for "illegal arrests"; the law is clear - when there is a violation of a protective order (a felony) coupled with probable cause (once again based upon speedy information) the officer is well within his or her authority to immediately arrest the offender.

The practice of preference for warrant over warrantless arrest, and beyond a reasonable doubt over probable cause, only harms a crime victim, especially in domestic violence cases. It is his or her safety which is jeopardized by this practice. In order to properly address this issue, the States' Attorneys for the thirteen Judicial Districts should meet with the various Chiefs' of Police in their jurisdiction so that the police and states attorneys are working together to protect victims. The police cannot be expected to provide a States' Attorney, at arraignment, with a case that is neatly tucked in a box with all available evidence obtained. Not only is this unrealistic, but it also has dangerous ramifications for public safety. As a result, law enforcement officers will appear to the layman as not seeking the arrest of an offender, when in reality, the officers have been conditioned to meet the heightened standard required by the States' Attorneys.

It should be noted that this elevated standard has existed for some time, but has not and will not be addressed by the law enforcement community for fear of backlash from the community to which they must work within. In fact, on every occasion when an officer had informed the OVA of this practice, they have specifically asked the OVA staff not to address it with the States' Attorneys.

February 14, 2009: Tiana Notice came to the Plainville Police Department on February 14, 2009, only a few hours before she was murdered. She informed Officer Connoy that Carter was again violating the order, only this time the email contained Carter's name and telephone number. It is the opinion of the OVA, and I would venture to say most in the legal community, that at this point Officer Connoy is in a position to arrest Carter on probable cause, based on the speedy information. Tiana provided the email with Carter's identifying information, a valid order of protection (which we know Plainville Police had in their possession) and the history of Carter's behavior.

However that arrest does not occur. Rather, for reasons still not clear, Officer Connoy made a decision to contact James Carter II. I have been informed that it is not uncommon for a law enforcement officer to call an offender and threaten arrest, as a method of getting the offender to stop his or her behavior. In cases of domestic violence this "method" is akin to pouring gasoline on a fire. It places the victim in danger and, as we know, and only infuriates the offender. Not to mention, the call threatening an arrest, with an offender such as Carter II, who had the experience of being incarcerated, would most likely produce a feeling of being cornered and, therefore, more likely to lash out. Officer Connoy was or should have been aware of the history of James Carter II's continual violations of the restraining order over the past six weeks. Also within the possession of Connoy, was the criminal background information of Carter, which would have alerted Connoy that Carter has been incarcerated for a domestic case and, most likely would be incarcerated again if arrested and convicted for another domestic violence offense. Additionally, he had been advised by Tiana as to the content of the most recent emails, which depict an individual who is desperate at the very least. Officer Connoy's decision to contact James Carter II with the sole purpose of informing Carter of a pending arrest is unacceptable. Especially in light of the fact that the note provided by Tiana specifically asked her *not* to contact the police. The Officer had two emails from James Carter II's email account, with Carter's phone number as well as a history of over six weeks of Carter's continual harassment of Tiana and numerous lies to the Plainville Police. There is no indication from the reports that Connoy communicated with Tiana that the officer made contact with Carter and that Tiana should have been made aware that Carter was informed that an arrest was imminent. Rather, from reports of Robert Dennis and Antoinette Stever, Tiana believed, on the night she was murdered, that Carter was going to be arrested by the Plainville Police based on the conversations she had with the police.

The officer had probable cause to arrest Carter, and should have arrested James Carter II. In the event the Officer could not immediately located Carter he should have assisted Tiana by encouraging her to contact a domestic violence advocate to devise a safety plan for her protection especially since he was armed with the knowledge that Carter had been to Tiana's house within the last 24 hours.

Family Court:

Often times a victim of domestic violence will seek a restraining order prior to reporting abuse to the police. Therefore, the Family Courts of Connecticut, who hold authority over whether to grant a restraining order, are often the venue where a domestic violence victim will first speak of the abuse. It is there that the victim is most vulnerable to

judgment or criticism. The interactions with the Family Court, from the clerk all the way up to the presiding Judge, will either encourage a domestic violence victim to continue to ask for assistance or may discourage the victim (and effectively the victim becomes silenced). Additionally, when a Court erroneously grants mutual restraining orders, when only one party is in fear of “immediate harm”, the victim suffers. Now, if and when the victim contacts the police for a violation of the order by the abuser, the Court, through its actions, has placed the victim and the offender on equal footing with regards to credibility and protection. This practice only makes securing protection of the “real” victim more difficult for the police and the victim.

In reviewing the full hearing of applications for a restraining order on January 16, 2009, the Court’s tenor is problematic. It seems that the Court lacked the basic understanding regarding identifying red flags in domestic violence cases which were present during the hearing. The problem is that due to the fundamental misunderstanding of the Court, the Court granted both parties mutual restraining orders, leaving Tiana feeling unheard and re-victimized. Reality dictated that Tiana was the one in need of a restraining order, and not Carter.

In the majority of cases the domestic violence victim seeks a restraining order alone and is not represented by counsel. The applicant is often confused by the process which is compounded by the fear of the offender who has brought the applicant to the Court in the first place. Thus it is imperative that the Court in reviewing restraining order applications be armed with the knowledge regarding what specific information to seek and obtain when assessing the credibility of the parties. For example, many offenders will seek a reciprocal order, days prior to the victim’s ex parte application for a restraining order hearing and try to fraudulently convince the Court that they, the offender, are the victims.

In this case the presiding Judge’s demeanor during the hearing appears from the record to be almost jovial or flippant towards Tiana and Carter. I am not sure if the Family Relations Department had obtained an agreement, but from the beginning of the hearing the Judge tried to obtain a mutual order for the parties. When Tiana learns what a “mutual order” means from the Judge, and she retracts her agreement, the Judge then tries to dismiss the orders out right. Additionally, the Judge minimizes the threat voiced by Tiana by reference to Tiana and Carter as, “Romeo and Juliet” to Carter’s mother. Furthermore, at the end of the hearing, the Judge asked Tiana and Carter whether they would be back together in a week. Clearly, the comments from the bench indicate a lack of appreciation for the difficulties faced by many victims of domestic violence who attempt the brave step of leaving an abuser only to be forced to return to their abusers for one reason or another. There are countless reasons why a domestic violence victim may return, but one thing is clear here, that a victim in this Courtroom would be hard pressed to return to Court for another restraining order after this experience.

What is striking is that the Judge never inquired of Carter as to why he sought an ex parte restraining order a mere two days prior to the hearing on Tiana’s restraining order. When dealing with domestic violence, it is these little nuisances that an untrained eye may not indentify, but that a Judge must be cognizant of in order to determine the motive behind a

respondent's request for a mutual order, especially when the order is sought in close proximity to the full hearing date, as was the case here. Furthermore, the Judge also neglected to inquire with Tiana regarding her testimony that the police were involved. Tiana was the only one with physical evidence of the unwanted conduct and Tiana also mentioned that Carter had violated the order as well.

It is unclear whether Judge Prestley had access to Carter's criminal history, and the understanding of the OVA is that most, if not all, Family Courts currently do not have access to the criminal history information nor information on restraining order history. Therefore, if the OVA is correct, and Judge Prestley did not have historical background information on Carter, the Judge would have been hampered in evaluating Carter's credibility and application for the restraining order. However, that being said, the mere fact that Carter sought a restraining order two days prior to his hearing on the order against him, should have alerted the Judge to inquire deeper into Carter's request for protection.

Here again, as was the case in *The Investigation into the Domestic Violence Murder of Jennifer Magnano*, the lack of available information to the Court as well as the lack of follow up questions when deciding orders of protection or family matters, left the Court with fractured information, which would have been critical to the safety of a domestic violence victim.

States' Attorneys:

In reviewing the criminal history of James Carter II, a pattern quickly emerged of Carter II engaging in criminal activity, being arrested, and then having his case(s) reduced to a lesser included charge or, in some cases, substituted by the States' Attorney for a charge having absolutely no relation to the original incident. This is blatantly clear in Carter II's first violation of protective order charge which was substituted by a charge of failure to appear 2nd. An individual who continues to engage in criminal conduct, should, in turn, receive consequences which increase as the conduct continues. Understandingly it is beneficial for the States' Attorneys to sometimes negotiate for a lesser offense and/or penalty, but for Carter II, and too many other domestic violence offenders that we see at the OVA, the criminal justice system in Connecticut lacks an elevated response for repeat offenders. The criminal justice system does no one any good by refusing to prosecute, and instead provide offenders with constant leniency, involving a mix of reduction of charges, substitute charging and diversion.

RECOMMENDATIONS:

Law Enforcement:

This investigative report highlights the systemic issues regarding the enforcement of orders of protection in Connecticut, specifically involving the authentication of orders of Protection and the need for swift response to violations of these orders. The report also points out the need for a statewide Model Police Policies and Procedures on handling domestic violence offenses and the need for training to ensure the proper response to violations of orders of protection. Additionally, of the policies and procedures reviewed by the OVA over the years, many of the policies throughout the state are void or rather silent as to language regarding the enforcement of orders of protection. Specifically unaddressed are the procedures an officer must undertake when faced with an alleged violation, including the immediate arrest of an alleged violation when there is probable cause based upon “speedy information”. Most of the policies the OVA has reviewed include a section of the types of orders and a brief section on authentication.

- A requirement that all Police Departments within the state annually review polices and procedures to comport with legislative and other necessary changes.
- The implementation of Mandatory Statewide Model Police Policies and Procedures for handling domestic violence incidents, including specific procedures for responding to violations of orders of protection.

The Mandatory Statewide Model Police Policy regarding the enforcement of an order of protection should read like the following:
An Officer, in making a decision to arrest or apply for a warrant, should proceed in the following manner:

1. In the interest of immediacy, and in light of the threat always present when an order of protection is violated, coupled with the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officer witnesses or has probable cause to believe has violated an ex parte restraining order, a restraining order, protective order, standing order of protection, or a foreign order of protection.
2. Under no circumstances, in a domestic violence incident, should the officer notify the alleged offender of a pending arrest or investigation. Rather if the officer has sufficient evidence to arrest (probable cause based upon speedy information) the officer should arrest. In a case in which the alleged offender is not located the Officer should ensure the victim has been notified that the alleged offender has not been picked up and encourage the victim to contact a professional advocate through the local domestic violence program to devise a safety plan prior to returning to his or her home.
3. Once probable cause for arrest has been established and if the offender has left the jurisdiction, the Officer should notify

neighboring jurisdiction or jurisdictions where the offender is believed to have fled, that there is probable cause to arrest the offender and to do so if the offender is seen.

- The creation of a Committee to evaluate the policies and procedures for law enforcement departments' handling of domestic violence incidents and violations of orders of protection which meets at least annually to ensure new laws are implemented appropriately and to evaluate the policies and procedures to ensure that the nationwide best practices are continually implemented to best protect victims of domestic violence. This will ensure that Connecticut has the most up to date policies and procedures for the proper handling of domestic violence incidents for the safety of crime victims.
- A mandatory lethality assessment for all cases involving domestic violence to assist officers as well as victims in ensuring safety.
- Crime Victim Specific Training for law enforcement officers, including training on complexities of domestic violence, and how to best protect the victim and their family.

Family Courts:

- Ensure that the Family Court Judges have access to criminal history of applicants and respondents, including access to prior restraining orders. This can be done through the staff of the Family Relations Office who can simply conduct a search of the information on the available systems.
- Ensure that Family Court Judges receive training on domestic violence including the tactics often utilized by offenders to manipulate the system and harass the domestic violence victim. These tactics should be common knowledge to all Judges sitting in Family Courts and handling restraining order applications.

States Attorneys:

- Ensure there are procedures in place to guarantee the prompt response to warrant applications in cases of domestic violence.
- A mandatory meeting for States' Attorneys and Supervising Assistant States Attorneys with the area Police Chiefs and Commanding Officers at area troops, to ensure that arrest for probable cause in domestic cases are occurring, and that if cases come through the States' Attorney's Offices that could have and should have been an immediate arrest, that the States' Attorney take the time to assist the law enforcement officer in identifying these cases. Also to discuss the practice of requiring law enforcement officers to obtain additional evidence beyond probable cause in warrant applications, especially in cases of violations of protective orders and also in drunk driving cases, as these cases present a threat to either a named person or the community at large.

LEGISLATION

- Expand the Death Notification procedures to encompass notification to designated family members for all homicides to ensure that notifications are administered in a manner which is respectful and dignified.
- If necessary, introduce legislation to establish Mandatory Model Police Policies and Procedures for handling domestic violence cases and establish a Committee to review and update the policies.