STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE
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Testimony of Michelle Cruz, Esq., State Victim Advocate
Judiciary / Human Services Committees
Monday, March 15, 2010

Good morning Senator McDonald, Senator Doyle, Representative Lawlor, Representative Walker and distinguished members of the Judiciary and Human Services Committees. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

JUD **Raised Senate Bill No. 448**, *An Act Concerning Applications for Relief from Physical Abuse by a Family or Household Member*

HS **Raised House Bill No. 5246**, *An Act Concerning Distribution of the Marriage License Surcharge and Changes to the Landlord & Tenant Statutes to Benefit Victims of Domestic Violence*

JUD **Raised House Bill No. 5496**, *An Act Concerning Restraining Orders for the Protection of Family Violence Victims in the Workplace*

JUD **Raised House Bill No. 5497**, *An Act Concerning the Recommendations of the Speaker of the House of Representatives' Task Force on Domestic Violence*

Tiana Notice; Alice Morrin; Gina Lacouture; Shengyl Rasim; Dia Palafox; Bonnie MacKay Belanger; Barbara Hamburg; Madeline Brisson

Domestic violence is not a "cause" or an "issue"; and despite what others say, we are not seeing a "rash" of domestic violence cases- but rather we are seeing, some for the first time, the level of domestic violence that is present in our state and in the nation. Only by the media coverage of domestic violence victims' lives and tragic deaths are we now beginning to acknowledge this sad reality as fact. Domestic violence is and has been an epidemic. The domestic violence victims named above only represent ten domestic violence victims we have lost. The actual number of domestic violence victims who suffer daily is astounding and yet we may not hear of their stories unless they become yet another fatality in our state.

I applaud the efforts of the Speaker's Task Force on Domestic Violence and appreciate the recommendations they have made on behalf of victims of domestic violence. It is true that the criminal justice system cannot guarantee 100% safety for domestic violence victims; just as the General Assembly cannot legislate 100% safety for domestic violence victims. However, when it comes to domestic violence we must have a united front founded upon zero tolerance for domestic abuse and a unified state-wide response.

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There are really three identified categories of domestic violence offenders:

1. The first offender, after an arrest, is amenable to the criminal justice system if and only if, the courts enforce the courts orders and domestic abuse holds a consequence. This offender will completely and immediately be cooperative within the criminal justice process, obey court orders and will fear the consequence for not abiding by orders. But this offender will also be teachable to a system that holds no accountability for violence and will take the courts lack of actions as a green light to continue his or her abusive behavior. This offender is a good candidate for the Family Violence Education Program, the program available to "first time offenders" to resolve the criminal matter without the negative implications of a criminal record.
2. The second offender, after an arrest will not believe the criminal justice system will respond to his or her violence. He or she will test the waters, such as sending flowers to the victim in violation of a protective order. If the system (law enforcement; prosecutors; judges; bail commissioners) responds to the violation with zero tolerance, this offender will either become compliant or be identified as a danger.
3. The last offender is the most lethal and not phased by the court's interactions. After an arrest, this offender will continue and in many cases, escalate, intimidating, harassing, threatening and abusive behavior aimed at the victim. The system must first, recognize this offender's threat level and respond immediately to this type of domestic violence offender. Typically, this offender has a history of domestic violence, escalating behaviors and is an immediate danger to the victim.

The Office of the Victim Advocate (OVA) supports GPS tracking for certain domestic violence offenders who have not yet racketed up to incarceration, but not as an alternative to incarceration. The key to GPS, however, is an appropriate tracker with the necessary staff to respond 24/7. Connecticut's current GPS monitors are insufficient to ensure the safety of a domestic violence victim. In order to properly protect domestic violence victims, Connecticut would be wise to invest in a satellite and cell tower backed GPS devise. Additionally the current GPS system in Connecticut is passive and has a delay of up to five minutes to report information back to the state. In order to have an immediate response Connecticut will have to have staff available 24/7 who will be notified of a breach and then notify the victim and police simultaneously. This is imperative to victims' safety. Additionally prior to affixing a GPS monitor onto an offender, a staff person, perhaps from Court Support Services Division (CSSD) will have to check the victims' hot zones, to ensure the monitor will report a breach appropriately. This can be done prior to the release of the offender from Court.

Additionally, several states, have designed STOP teams within their communities to better support domestic violence victims of high risk offenders. The teams are usually comprised of a court based domestic violence victim advocate, the local law enforcement department and the local battered womens' shelter program. For example, on Friday, Springfield, MA has a high risk domestic violence offender escapes from facilities. The team set up a phone tree to respond to situations, such as this, and was able to notify victims within 30 minutes through this coordinated community response. This is a model Connecticut would be wise to replicate. We have many partnerships, such as these, already established in our communities. The roadblock is financing and commitment

from all parties, including the courts, prosecutors, police, and domestic violence programs. This is the coordinated community response that will better protect our citizens who have fallen prey to domestic violence offenders.

Domestic violence dockets are an important commitment that Connecticut has made in some jurisdictions. It takes a certain type of person to understand and appreciate the dynamics present in domestic violence cases. It is not an easy task. We who understand and support domestic violence victims and their plight to live free of abuse, know all too well, that many victims may return to their abusers several times prior to finally leaving for good. In other cases, victims will actively fight the prosecution of an offender. There are many reasons why a domestic violence victim may fight the prosecution of his or her offender - some times it is the children, or finances, but many times it is simply the reality that when all is said and done the court, prosecutor, advocates, and law enforcement cannot be present with the victim 24/7 and he or she believes that the best way to manage the abuse is to go back. It is a case of turning to the familiar rather than the scary unknown. And it takes an especially compassionate prosecutor to handle these cases day after day. Furthermore, it takes a gifted judge to identify risk factors and fashion sentences that will both protect the victim and, at the same time, provide treatment to the offender. The commitment to establish domestic violence dockets is essential for a unified response to ending the violence. It also allows for a venue for training of the entire staff dealing with these especially difficult cases. The only other recommendation the OVA would suggest is that there be a consensus as to the type of cases these dockets will handle. In some jurisdictions these dockets handle only minor offenses while others handle the most serious. In order for Connecticut to provide a consistent response to domestic violence throughout the state, we should start by a consistent approach in our domestic violence dockets which would include specialized training on domestic violence as well as vicarious trauma and burn out.

The process of a criminal case in Connecticut includes numerous court hearings and continuances. Victims have a constitutional right to be present at all court dates, provide a meaningful impact statement and be reasonably protected from their offender. In order for the victim to fully participate, he or she needs to know that they are protected from backlash from their employer. This is true of all crime victims. Currently the time period to file a claim against ones employer for retaliation is 90 days. This is simply not a sufficient time period nor a workable time limitation for a victim to respond in a meaningful way. The extension of the time limits will allow a victim to protect themselves while they are dealing with a trying and draining experience of being a crime victim and with a workable remedy if they are discriminated against by their employer.

The name change of the "standing criminal restraining order" is in line with logic. The current language is confusing. There is enough confusion to go around from victims, by this simple name change, the availability of what is now, for all intents and processes, a "lifetime" order will be clearer to victims. Additionally the OVA will often hear from victims of domestic violence who are currently faced with returning to court every six months to extend their order. The OVA encourages the Judiciary

Committee to allow a judge in family court the discretion, in appropriate cases, to extend a restraining order beyond the six month time period for up to a year. There are a limited number of cases where the facts and circumstances simply support the need for a year long extension and the Judge should be allowed the discretion to extend those orders when and if it is appropriate. Additionally the OVA does not support the change to the current system involving what is now the "standing criminal restraining order". There is no perceived need to change the current practice and we have yet to hear of a situation where the order should have been limited at the conclusion of the offender's case. As often stated, why fix a practice that is not broken.

In addressing domestic violence, we need to be wise and not waste our energy re-inventing the wheel. The OVA, for instance, released a comprehensive investigative report on Nov 30, 2009 regarding the untimely death of Jennifer Magnano. The report contains numerous recommendations geared toward better protecting domestic violence victims. Some of those recommendations have been embraced through the state police, legal aid and several of the domestic violence programs, to name a few. The gaps in services experienced by Jennifer and her three children were not unique to them but rather the experiences of many domestic violence victims throughout our state. Learning from the experiences of domestic violence victims is the best way to identify how to better protect domestic violence victims.

The OVA is currently engaged in several investigations at this time involving domestic violence deaths over the past 13 months. These various cases are at different stages of completion- but I can tell you definitively that the following suggestions come directly from the pending investigations:

1) Offenders who are in court on a violation of an order of protection should not be released from court without, at the very minimum, a racketing up of bond. The charge for violating an order of protection is unique in two aspects- first, we KNOW there is a VIABLE threat against an identified person, and second, the offender is ON NOTICE that certain behaviors will bring about law enforcement and court interactions and possibly a relinquishment of the offenders liberty. In light of the uniqueness of these charges, the court must send a message to the offender. Simply allowing the revolving door of the justice system to send an offender back out into our community without any consequence or on the same bond is unacceptable and, most importantly dangerous.
2) Next, there needs to be a swift and immediate response to a domestic violence victim's compliant to a violation of an order of protection. We know this can be done. The police were able to identify the commenter of the threats against Attorney Ullman, Representative Lawlor and Senator McDonald within a matter of days. It is not acceptable to delay investigations of alleged violations of orders of protection.
3) And lastly, we need to improve our current system when it comes to reporting violations of orders of protection. Currently there is a delay. The police departments require a "hardcopy" of an order of protection prior to arresting an offender and, despite what is being told to domestic violence victims; it cannot be

the one in possession of the domestic violence victim. Rather is must be faxed from an originating police department or the court. This is a step that is unnecessary and causes much frustration with victims of domestic violence. The police should be able to check COLLECT for the latest date of the order and if it co-insides with the victim's copy, that should be sufficient as it is in many states. This second step is unnecessary and causes a delay in the responsiveness with the police.

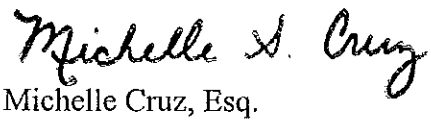
As I stated earlier, the OVA applauds the Speaker's Task Force for putting forth the proposals before you. I would like to recommend some key components that will further enhance the proposals. A successful effort in responding to domestic violence must be through a coordinated community response. Questions like "Why doesn't he/she leave?" or "Why did he /she go back?" have to be replaced with "Why does he/she batter?" and "Do they want to change their behavior?" The responsibility for abusive and controlling behavior is on the offender. The statute needs to be clear that a victim listed as the protected person on an order of protection cannot be charged with accessory or conspiracy to violate that order of protection. It is not the victim's behavior that is restricted by the court.

Finally, the family violence education program (FVEP) is currently available to "first time" domestic violence offenders. However, with the use of other pre-trial diversion dispositions, many offenders have four or five domestic violence arrests before they are granted the FVEP. Domestic violence cases require a priority for investigation by law enforcement, reasonable risk assessment by bail commissioners, prompt attention by prosecutors, strict enforcement by the courts, close supervision by CCSD and meaningful input from the victim. This undoubtedly will cost some money for resources; however, it is a critical link for success in ending domestic violence as it is today in the state of Connecticut.

CONSTANT VIGILANCE AND A UNIFIED STATE-WIDE RESPONSE.

Thank you for consideration of my testimony.

Respectfully submitted,



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