

THE DOMESTIC VIOLENCE MURDER OF KAREN TRUDEAU A REVIEW OF THE JUDICIAL SYSTEM'S RESPONSE

Submitted by the Southern Hilltown Domestic Violence Task Force

EXECUTIVE SUMMARY

On May 31st, 2002, Henry Trudeau from Blandford Massachusetts stabbed his wife to death. Several months before the murder Henry punched Karen in the back, destroyed her belongings, and threatened to “get” her, according to Karen Trudeau. Henry had a history of alcohol abuse and was hospitalized at least twice for depression and attempted suicide. Shortly after killing Karen, Henry committed suicide.

Over a three month period from February to May 2002, Karen called State Police and went to Westfield District Court at least ten times. She requested an abuse prevention order requiring Henry to stay 100 yards away from her at all times and to not contact her except to discuss child visitation logistics. When Henry repeatedly violated the order, Karen filed five separate criminal complaints and, as required by the Court, attended hearings to prove that her complaints were valid. Karen stated that Henry phoned her incessantly, followed her around town shouting obscenities from the car, drove slowly by the house while taking photos, and on at least one occasion tried to break into the house. During this time, Henry’s family also went to court to have Henry legally committed to an inpatient substance abuse program. They believed that he was suicidal, was drinking heavily, and was increasingly incapable of managing his daily affairs.

Alarmed by the events of this case, the Southern Hilltown Domestic Violence Task Force, comprised of community residents and local and county agencies, began an investigation. The Task Force found that over a four month period, the Westfield District Court neglected to follow State Judicial Guidelines on several occasions. Guidelines recommend that abuse prevention orders be granted for one year. Karen’s order was granted for three months. Guidelines also recommend that applications for criminal complaints of abuse prevention order violations be issued promptly or immediately. The Court allowed a backlog of Karen’s complaints, and as a result judges did not have critical information when determining how to handle her case. The investigation also found that the Court failed to respond adequately to Karen’s pleas for help and never held Henry accountable for allegedly violating court orders.

The Hampden County District Attorney’s Office also failed to hold Henry accountable for his actions. They knew that Karen had filed five criminal complaints against Henry reporting on-going abuse prevention order violations and had probable cause to believe Henry was violating Court orders. The Hampden County District Attorney’s Office never requested that Henry be put on probation or be held accountable in any way, never asked that Henry post bail or that his conditions of release be revoked, and never requested a dangerousness hearing. Massachusetts law provides district attorneys with the option of requesting a dangerousness hearing in cases like this, so that an offender can be held or

otherwise restricted until trial if a court determines that a victim will be in danger upon the offender's release from court.

This report presents seventeen recommendations, primarily for Westfield District Court and the Hampden County District Attorney's Office. The recommendations aim to increase protection for victims by holding offenders accountable and by creating a judicial process that is more responsive. Recommendations call for the development of new systems, and the evaluation of model programs being used in other cities and states.

While the Task Force acknowledges that court practices vary widely, advocates and legal professionals from across the State report that the patterns and gaps identified in this report can be found in many Massachusetts courts. It is our hope that the findings and recommendations in this report will be used to improve the judicial system's response to domestic violence.

BACKGROUND

Karen Trudeau was raised in Russell and Blandford and Henry Trudeau was raised in Westfield. The couple dated in high school and married in 1984. They had two daughters, Sarah and Hannah, who attend Gateway Regional Schools. The Trudeaus were well known in the community. Karen was a stay at home mother and was a brownie volunteer for many years. Henry was a car salesman and later managed a liquor store in Russell that the couple purchased in 2001. He was also a volunteer soccer coach. Karen never contacted the police or the courts about a domestic violence incident until February 2002 although family members report Henry had been abusive prior to this time. In October 2000 Karen did contact police due to her concern that her husband was suicidal.

SUMMARY OF EVENTS

On February 8th, 2002 Karen requested and received an emergency abuse prevention order against Henry from Westfield District Court, and on February 13th this order was extended for 3 months.

On February 15th Karen filed for divorce and requested temporary custody of the couple's two children at Hampden County Probate and Family Court. On March 18th Karen was awarded temporary custody. A visitation schedule was established.

On March 19th Karen filed a criminal complaint with Westfield District Court in which she stated that Henry violated the abuse prevention order immediately after the divorce proceedings at Probate and Family Court the day before. On March 22nd Karen called the State Police to report a second violation. The State Police, Russell Barracks, responded promptly. Henry ran away from the police but was later arrested and held in jail for the weekend. On March 25th Henry was arraigned at Westfield District Court.

On the same day (March 25th) a civil commitment hearing was held at Westfield District Court at the request of Henry's family. Civil commitment hearings can be held to determine if a person is dangerous due to substance abuse. If someone is found to be dangerous he can be committed to an in-patient substance abuse program for up to 30 days. As required by law, Henry was evaluated by a forensic psychologist as part of the civil commitment hearing. According to court records, the psychologist did not speak to Karen as part of this evaluation. Although an Assistant District Attorney from the Hampden County District Attorney's Office questioned Karen about Henry's alcohol abuse and suicide history, the issue of domestic violence was not raised. The civil commitment was denied. According to the Westfield District Court, there was enough evidence to determine that Henry was an alcoholic, but not enough to determine a likelihood of serious harm as a result of his alcoholism.

Henry was released following the arraignment and civil commitment hearing. The following conditions for release were set: Henry was to report to the Probation Department daily, remain drug and alcohol free, submit to random drug/alcohol testing, and comply with the abuse prevention order. Two days later at a pre-trial hearing the requirement that Henry report to Probation daily was dropped. Although Henry was still required to remain drug/alcohol free and to comply with the abuse prevention order, no monitoring of this case was put in place. The Hampden County District Attorney's Office did not request new conditions of release when daily reporting to Probation was dropped, despite the fact that Henry owned and worked in a liquor store. Henry did not have a lawyer present, but indicated that he might retain Attorney Allen Gintowt. The case was rescheduled to April 29th.

On April 29th the case was rescheduled to May 23rd. Again, no new conditions of release were requested by the Hampden County District Attorney's Office or set by Westfield District Court. On April 23rd, Karen had filed another criminal complaint with the Court stating that Henry violated the abuse prevention order a third time.

Court documents indicate that the case was rescheduled on April 29th at Henry's request because his alleged attorney, Allen Gintowt, was ill. Subsequent inquiry by the Task Force revealed that although Attorney Gintowt had been appointed by the Court to represent Henry in a civil commitment hearing, Henry never approached Attorney Gintowt to represent him in any domestic violence or other criminal matter.

From May 3rd to May 9th Karen applied for three additional criminal complaints alleging ongoing violations of her, abuse prevention order. Karen stated that Henry called her repeatedly shouting obscenities on the phone, followed her around town shouting obscenities from the car, and drove by the house, on one occasion stopping to take a picture. On

prior occasions, Henry had punched Karen in the back, destroyed Karen's belongings, tried to break into the house, and threatened her ("I'll get you, you bitch"). A court date to present these and other charges to Henry was scheduled for May 14th.

Between March 27th, when Henry was released from Court on the condition that he not violate Karen's order and May 14th, Henry allegedly violated her order at least four times. Despite Henry's failure to adhere to the conditions which allowed his release and despite the general escalation of his abusive behavior, the Hampden County District Attorney's Office did not ask that bail be set or that conditions of release be revoked. Nor did the District Attorney's office request a dangerousness hearing.

The Westfield District Court, which set the conditions of release that Henry violated, did not impose any consequences or new conditions of release for Henry on May 14th. The case was scheduled for a pre-trial hearing on June 6th. Henry's newly appointed court lawyer requested that a separate pre-trial scheduled on May 23rd for the police arrest be rescheduled to June 6th so all pending charges against Henry could be handled on the same day. This request was granted.

On May 31st Henry killed Karen. Police investigations later revealed that in the weeks prior to the murder, Henry told several people from his community specifically how he would kill his wife. Henry killed himself shortly after the murder.

FINDINGS

1. Karen took the following steps to seek protection:

- February 8th: went to Westfield District Court to request an emergency abuse prevention order
- February 13th: went to Westfield District Court to get abuse prevention order extended
- February 15th: went to Hampden County Probate and Family Court to seek a divorce
- March 18th: went to Hampden County Probate and Family Court for hearing on her request for temporary orders in the divorce for custody and child support
- March 19th: went to Westfield District Court to file complaint for 1st alleged abuse prevention order violation
- March 22nd: called State Police-Russell Barracks to report 2nd alleged abuse prevention order violation
- March 25th: went to Westfield District Court for Henry's arraignment and civil commitment hearing
- April 23rd: went to Westfield District Court to file complaint for 3rd alleged abuse prevention order violation
- May 2nd: went to Westfield District Court for show cause hearing on complaint filed March 19th
- May 3rd: went to Westfield District Court to file complaint for 4th abuse prevention order violation
- May 6th: went to Westfield District Court for show cause hearing on complaint filed April 23rd and to request an extension of abuse prevention order
- May 9th: went to Westfield District Court to file complaints for 5th and 6th abuse prevention order violations on May 6th and May 8th
- May 24th: went to Hampden County Probate and Family Court to file a contempt against Henry for failure to make child support payments
- Ongoing: sought support from a domestic violence agency (*as confirmed by family*)

2. The following red flags were present in this case¹:

- a rapid escalation in the frequency of abusive behavior
- a rapid increase in obsessive/possessive behavior (including frequent abuse prevention order violations, alleged stalking, incessant phone calling, harassing and vulgar language)
- attempted separation by Karen not accepted by Henry

1. The term 'red flags' is often used by experts who study domestic violence risk assessment. For more information see articles by Campbell, J. et. al. (2003), "Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study" in the American Journal of Public Health, Vol. 93, pp. 1089-1095, and by Websdale, N. (1999), "Lethality Assessment Tools: A Critical Analysis" on VAWnet.org (domestic violence resources, research, VAWnet commissioned docs).

- alleged history of suicide attempts by Henry
- alleged history of depression on part of Henry
- alleged increase in substance and alcohol abuse by Henry
- detailed threats to kill Karen (made to friends, but unknown to authorities)

3. Karen's request for an abuse prevention order was granted by Westfield District Court on February 8th and was extended for 3 months on February 13th. On May 6th the abuse prevention order was extended to May 30th and later to June 6th. It is not clear why the order was extended for less than one year. *Guidelines for Judicial Practice: Abuse Prevention Proceedings* (Guidelines) section 6:02 state "Each order issued after notice (except permanent orders) should be for a period of one year, unless the plaintiff requests a lesser period or the court finds that a lesser period is warranted." According to family members, Karen did not request a lesser period.
4. No SAFEPLAN or Victim Witness Advocate was present to assist Karen when she filed for an abuse prevention order in Westfield District Court on February 8th, or when she requested an extension of this order five days later.²
5. No counselor from a certified batterer intervention program was present to advise Henry through the legal process when he appeared in Court on various occasions.³
6. On March 22nd Karen called the State Police to report that Henry was at the back steps of the house, a clear violation of the abuse prevention order. Police responded immediately in person and when Henry ran away, the police pursued and later arrested him. Henry was held in jail for the weekend until he could be arraigned at Westfield District Court.
7. In addition to calling the police, Karen filed five separate applications for complaint with Westfield District Court alleging abuse prevention order violations.
8. Karen's first application for a criminal complaint for a violation of her abuse prevention order, filed on March 19th, took 44 days to be accepted or denied by Westfield District Court. A second application for complaint filed on April 23rd took 13 days to be processed. However, Guideline 8:01 makes it clear that hearings for alleged 209A violations should proceed promptly or in some cases immediately.⁴
9. This case was rescheduled on April 29th, and on May 14th. Court records indicate the case was rescheduled on April 29th because Henry stated his attorney was ill. Subsequent inquiry by the Task Force revealed that Henry's alleged attorney was not actually his attorney. On May 14th, Henry's court appointed lawyer requested that a hearing scheduled for May 23rd be rescheduled to June 6th so that all pending charges against Henry could be heard together. This request was granted despite Henry's escalating behavior and general failure to abide by court orders.
10. After the initial arraignment on March 25th, the District Attorney's Office did not request new conditions of release at any court event related to this case and never requested that conditions of release be monitored by the Court.
11. The District Attorney's Office did not at any time make a motion to request bail or to revoke original conditions of release despite the fact that there was probable cause to believe Henry violated conditions of release on at least four occasions by violating the abuse prevention order.

² Advocates for victims have become a vital part of the abuse prevention system throughout many courts in Massachusetts. Advocates assist by explaining court processes, helping to fill out forms, explaining the parties' rights and obligations, providing emotional support, and providing information to judges.

³ Several localities have programs which provide information to and/or referrals for defendants in 209A cases. Typically, these programs provide information to defendants in 209A cases regarding what will occur in court that day, what a restraining order means, and information about consequences for violating an Order.

⁴ According to the *Guidelines for Judicial Practice: Abuse Prevention Proceedings 8:01* "When a criminal complaint for a violation of a vacate, refrain from abuse, no-contact or gun surrender order under c. 209A . . . is sought, an application should be received and a hearing promptly held . . . " "If a felony is also alleged or if there is an imminent threat of bodily injury or of the commission of a crime or flight by the accused. . . , the hearing should be conducted immediately, with no notice to the accused."

12. The District Attorney's Office did not request a dangerousness hearing in this case. In particular, on May 14th when it was clear that Henry's abusive behavior was escalating and that he was not adhering to conditions set by the Court, a request for a hearing would have been appropriate.
13. After March 25th, the Judges who presided over this case did not revoke Henry's conditions of release or set new conditions of release, despite Henry's repeated violation of original conditions set by the Court. Aside from a two day period from March 25th to March 27th, Henry was not required to report to Probation or to any department of the Court to ensure that he was complying with court orders.
14. It does not appear that the Westfield District Court ever referred Henry to a certified batterer intervention program. Massachusetts General Law c.209A, states for "any violation of a domestic abuse protection order, the court shall order the defendant to complete a certified batterer's intervention program unless, upon good cause shown, the court issues specific written findings. . ." While this case was not fully prosecuted, a pre-trial referral to a batterer program for evaluation would have been appropriate given the number of times the case was rescheduled.⁵ These programs evaluate danger, and stay in contact with the victims of offenders involved in their programs. A certified batterer intervention program may have been able to alert the Court and Karen about heightened danger.
15. Henry's family requested a civil commitment hearing for Henry based on their concern that he was dangerous due to alcohol abuse. The Court appointed a forensic psychologist to assess Henry's risk at the civil hearing commitment. This is standard procedure. However, the forensic psychologist who did the assessment did not appear to have training in domestic violence risk assessment or if s/he did, did not apply it at this hearing. According to court records and family members, the psychologist did not speak with Karen, who was present at the trial, as part of the evaluation.
16. Two different Judges presided over various events in Westfield District Court. Neither Judge appears to have had access to the information necessary to assess risk accurately and formulate appropriate conditions of release. Specifically, at a pre-trial hearing on April 29th the Judge most likely was not aware of alleged abuse prevention order violations of March 19th and April 23rd as these complaints had not yet been processed by the court.⁶
17. There was no sharing of information between Hampden County Probate Court and Westfield District Court. Information sharing could have contributed significantly to a more effective assessment of risk. For example:
 - Immediately following a Probate and Family Court hearing on March 18th during which temporary custody issues were settled, there was an alarming escalation of threatening behavior by Henry including but not limited to: restraining order violations, incessant phone calls, swearing, showing up at the house, and running away from police. If District Court had known when Probate and Family Court events were, and had been informed of resulting dispositions, it might have been possible to improve safety planning for Karen.
 - Henry's request that Karen's Complaint for Divorce be dismissed in Probate Court was unusual given that Massachusetts has no fault divorce. This suggests a marked inability on his part to let Karen move on with her life, an inability which is often a significant indicator of dangerousness. This information might have contributed to District Court efforts to assess risk.
18. There does not appear to have been any safety planning for Karen by her divorce attorney. Currently, training in domestic violence is not required for family law practitioners and is not required or even offered in many law schools.

⁵ According to research conducted by Edward Gondolf at the Mid-Atlantic Training Institute, Indiana University of Pennsylvania, certified batterer intervention programs can significantly reduce re-assault rates. Additionally, early referrals and compliance monitoring from courts appear to increase program effectiveness. Some courts make referrals as a stipulation of bond in preliminary court hearings. See www.iup.edu/maati/directos/gondolf.shtm

⁶ See finding number 8. Because applications for complaints were not immediately processed as outlined under *Guidelines for Judicial Practice: Abuse Prevention Proceedings 8:01* judges were not always aware that alleged protective order violations had occurred. Judges and district attorneys are not made aware of complaints until they are processed by the court.

19. Henry told people in his community specifically how he intended to kill Karen. This information was not shared with the police or with court personnel prior to the murder.

RECOMMENDATIONS

1. We recommend that the Westfield District Court and the Hampden County District Attorney's Office develop a protocol that provides plaintiffs with access to a SAFEPLAN advocate or an advocate from a local domestic violence program for all court events. Advocates have become a vital and routine part of the court system throughout numerous courts across the State including all district and probate courts in Hampshire and Franklin counties. Advocates can provide critical information to both plaintiffs and judges.
2. We recommend that the Westfield District Court develop a program that allows counselors from batterer intervention programs to be present at court so that they can help defendants better understand the court process, the consequences for violating court orders, and what services are available to them. Programs like these exist at Hampshire Probate and Family Court, Ware District Court, Dorchester District Court, Hadley District Court, and Orange District Court.
3. We recommend that Westfield District Court adhere closely to State Guidelines when extending abuse prevention orders. Court procedures should reflect the difficulty many victims face when they return to court to request an abuse prevention order extension including: anxiety and fear of the seeing the defendant which can start weeks before a court appearance, a risk of increased danger if the defendant perceives the victim's request as a further attempt at separation (attempted separation is a significant danger assessment red flag), the risk that the victim will think a short order means the Court does not think she is in serious danger, repeated requests for time off work, and day care and transportation logistics.
4. We recommend that the Westfield District Court follow State Guidelines when processing applications for criminal complaints based on alleged 209A violations. These Guidelines indicate that Karen's complaints should have been processed promptly or immediately.⁷ It should be recognized that a plaintiff may file a personal complaint rather than calling the police if s/he thinks that calling the police might ultimately make the offender more dangerous. Especially in rural areas, the victim may also worry that the offender knows local police officers or that having an arrest publicized in the local paper might further agitate the offender.
5. We recommend that Westfield District Court develop a protocol that calls for release conditions to be set at arraignments that reflect the level of danger to the plaintiff and that require the defendant to report to Probation or the Court in some manner to verify that s/he is complying with court orders.
6. We recommend that the Westfield District Court follow the spirit of Massachusetts General Law c.209A, which states for "any violation of a domestic abuse protection order, the court shall order the defendant to complete a certified batterer's intervention program unless, upon good cause shown, the court issues specific written findings . . ." For example, in certain cases defendants should be referred for evaluation or program participation in certified batterer intervention programs at pre-trial hearings especially if a defendant is requesting that a case be continued.
7. We recommend that the Hampden County District Attorney's Office develop a protocol that guides prosecuting attorneys to:
 - o request release conditions at the time of all court appearances that are designed to increase the victim's safety, and
 - o move to request bail or revoke conditions of release when there is probable cause to believe that a defendant has violated standing conditions of release or violated an abuse prevention order.

⁷ See footnote 4. Additionally, 8:01 commentary states "Rather than refer a victim back to the police, this Guideline urges that the court should respond promptly to the complaint application. . . A hearing on an application can and should proceed immediately, without notice to the accused, if one or more of the statutory grounds for eliminating notice are present, namely, imminent threat of bodily injury, of the commission of a crime, or of flight from Massachusetts...."

8. We recommend that the Hampden County District Attorney's Office revise their internal policy on dangerousness hearings. Current policies do not outline specific criteria for when prosecuting attorneys should request hearings and does not specify how risk will be evaluated. Nor does current policy require periodic reassessment of risk which is a critical component of danger assessment.
9. We recommend that Westfield District Court develop guidelines for when a case can be rescheduled. These guidelines should incorporate risk assessment information, including the need for periodic reassessment of risk.
10. We recommend that any violation of an abuse prevention order, especially repeated violations, be considered a serious offense by both the Westfield District Court and the Hampden County District Attorney's Office. Even an apparently minor violation can be extremely threatening to a victim and shows a dangerous disregard for both the law and the victim's right to separate from her or his partner.
11. We recommend that both the Westfield District Court and the District Attorney's Office develop or adopt risk assessment tools that are consistent with current research.
12. We recommend that the Department of Mental Health mandate training in domestic violence risk assessment for all forensic psychologists who evaluate cases that may involve domestic violence.
13. We recommend that the Westfield District Court develop a system that will guarantee that information regarding criminal complaints and pending applications for criminal complaints is made available in a timely manner to both Judges and Assistant District Attorneys.⁸
14. We recommend that the lack of information sharing between Hampden County Probate and Family Court and Westfield District Court be addressed.
15. We recommend that the Westfield District Court and the Hampden County District Attorney's Office work with relevant agencies to develop new systems that provide more support and guidance for victims and offenders, that respond more quickly and thoroughly to victims' requests for protection, and that hold offenders accountable for violating court orders. Model programs from other municipalities should be assessed. For example:
 - Coordinated Community Response Programs: These funded programs seek to coordinate the five key players involved in domestic violence cases: judges, public attorneys, police, probation officers, and advocates. Programs exist in 18 cities including Quincy, Massachusetts.
 - Court Round Tables: These less formal programs also coordinate key players who share information, coordinate services, and problem solve at monthly meetings. They exist at numerous courts throughout the State.
 - Safety Audits: Safety audits review a range of cases to evaluate how effectively judicial systems protect victims and/or hold perpetrators accountable. They can provide critical information on where systems fall apart and how they can be improved.
16. We recommend that all private attorneys who do domestic relations work in Massachusetts be required to attend the free domestic violence training that is now being offered for the first time to Guardians ad Litem.
17. We recommend that the Southern Hilltown Domestic Violence Task Force conduct a community campaign to urge community members to share information regarding high risk domestic violence cases with the police.

⁸ If applications for criminal complaint are heard promptly this problem may resolve itself. However, at a pre-trial hearing on April 29th, the presiding judge was most likely not aware of alleged violations on March 18th and April 23rd because hearings were not held for these complaints until May 2nd and May 6th, respectively.