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A Case of Domestic Violence and Milwaukee County's Collaborative Work to Fight It

October is National Domestic Violence Awareness Month, a time to explore how the legal community protects domestic violence victims. In this article, one Milwaukee prosecutor explains what Milwaukee is doing to combat domestic violence, using one case as an example of innovation and collaboration.

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Oct. 1, 2014 — In the early afternoon of Sept. 19, 2011, Gary Salaam saw his ex-girlfriend as she strolled across a bridge just south of downtown Milwaukee with her sister and a friend. Salaam slowed his car, aimed his gun at his ex-girlfriend, and fired two shots in her direction. One bullet struck a vehicle. The second bullet bounced off the bridge and ricocheted back towards the intended target.

Salaam had been scouring Milwaukee's south side in search of his estranged girlfriend until he found her on the bridge. The women ran for cover and pedestrians scattered. An empty home standing in the errantly fired bullets' path was home to seven young children, none of whom were home at the time.

This shooting underscores the danger domestic violence poses, not just to the victim, but to the community at large. Salaam, a convicted felon at the time of the shooting, had absconded from his supervision following a prison sentence.

Salaam's victim represents a group of domestic abuse survivors most at risk for lethal violence. At the time of the shooting, she had suffered abuse at Salaam's hands, was pregnant with his child, and had recently ended the relationship. In addition, Salaam stalked her and had access to a firearm.

These factors significantly raised her risk of becoming a homicide victim.¹ [This article explores the steps that were necessary to bring Salaam to justice and protect the victim, which required innovative approaches to the case and agency collaboration.](#)



The Manhunt

Knowing that the victim and her sister were the only individuals who could identify him as the shooter, Salaam called their mother, threatened the victim's life and demanded the victim's sister call him within two hours.

The victim's mother, who lived almost an hour away in Jefferson County, frantically called 911 after she was unable to reach her daughter by telephone. She reported Salaam's threat and her grave concern for her daughter.

Like many domestic violence victims, this was not the first time Salaam had engaged in violence or abuse toward her. However, much of the abuse went unreported, as is often the case. Domestic violence is a chronically underreported crime with only about one-quarter of all intimate partner physical assaults, and one-fifth of all intimate partner rapes, reported to law enforcement annually.²

The mother's 911 call and reports by others at the scene triggered a manhunt that lasted almost two months. After a carefully orchestrated operation between Milwaukee police and federal agents, officers located Salaam in Milwaukee.

The victim was in the passenger seat of Salaam's car unharmed when officers apprehended him. Authorities learned Salaam had urged the victim to move to Green Bay, likely to help him avoid detection and apprehension by police.

Don't Miss Part 2 of this Series on Domestic Violence

In the Oct. 15 issue of *WisBar InsideTrack*, Milwaukee Assistant District Attorney Matthew Torbenson discusses Milwaukee's collaborative approach to fighting child abuse and child neglect.

Live 2

Undermining Manipulation and Intimidation

Domestic violence offenders exert power and control over their victims, often through manipulation and intimidation, which can include threats of violence. The same intimidation is often directed at material witnesses as well.

Research indicates victims are in the best position to assess their risk for further abuse and homicide.³ That assessment determines their next action, which often includes remaining with their abuser rather than risk their life or the lives of their children to leave the relationship.

When viewed in this light, it is not surprising that many victims stay in abusive relationships. Even after being taken into police custody, Salaam exerted power and control over the victim, engaging in manipulation and intimidation.



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Salaam repeatedly violated a court-issued no contact order, communicating with the victim from jail via telephone. Salaam carefully, and in code, dissuaded her from appearing to testify against him at trial.

Intimidation is rampant among domestic violence offenders, particularly in metropolitan jurisdictions. In 2008, Milwaukee County District Attorney John Chisholm created the Witness Protection and Security Unit (WITSEC), which targets gang and drug offenders who engage in intimidation and witness tampering offenses. The program was a

response to the execution of a material witness in a violent crimes case.

Despite the original intent, domestic violence cases now comprise about half of WITSEC's caseload. WITSEC investigators and analysts check jail calls and inmate mail logs, interview victims and witnesses, execute search warrants and subpoenas for records, and arrest offenders engaging in intimidation offenses.

The WITSEC initiative was identified at a recent national conference on intimate partner homicide as "the future of domestic violence enforcement."⁴

In the Salaam case, WITSEC officers discovered jail calls in which Salaam instructed the victim not to leave the house and not to appear at the courthouse.

When she appeared not to listen or understand his instructions, Salaam became upset and verbally abusive. He ultimately told the victim to get out of town, saying his life depended on it (which is a common form of manipulation in domestic violence cases). He also noted that he would send her letters, which presumably would include further instructions, and told her not to disclose information.

Based on WITSEC's investigation, the state issued a new case charging witness intimidation. This action set up an argument for admission of the victim's statements based upon the doctrine of forfeiture by wrongdoing if it was unable to procure the victim's appearance at trial to testify against Salaam.

Obtaining Testimony

The principle underlying forfeiture by wrongdoing is that a defendant should not benefit from wrongdoing and forfeits his or her right under the U.S. Constitution to confront their accuser if the wrongdoing caused the accuser's unavailability.

Under these circumstances, the courts may allow admission of a victim or witness's statements at trial, despite their failure to appear to testify against the defendant. Despite efforts by WITSEC to procure their appearance, both the victim and her sister ultimately did not appear at trial to testify against Salaam. The court issued body attachments, which are witness warrants, for the victim and her sister, allowing law enforcement to bring them before the court to testify.

WITSEC investigators searched the Milwaukee area, locating them within a couple hours. Since both were in fear of Salaam, they were provided witness protection and advocacy services. Upon being produced, each testified, albeit reluctantly, to their victimization. Through testimony, the court learned that Salaam had also instructed the victim to dissuade her sister from testifying.

Meanwhile, the victim's mother also failed to appear for trial, instead fleeing to Michigan. She also feared the defendant. As a consequence, the prosecutor had to find another way to introduce the mother's 911 call into evidence.

Under the U.S. Supreme Court's decision in *Crawford v. Washington*, 541 U.S. 36 (2004), prosecutors cannot proceed to trial in matters in which a victim or material witness fail to appear to testify against the accused. This ruling has particularly affected domestic violence cases with fearful victims and witnesses.

In 2010, a Milwaukee prosecutor drafted a brief with the assistance of an appellate attorney from the Wisconsin Department of Justice relating to the admissibility of certain hearsay statements when the declarant is unavailable.

The state's brief analyzes critical exceptions through which courts may admit statements, particularly those qualifying under hearsay exceptions as excited utterances and/or present sense impressions, which are non-testimonial in nature. In state and federal decisions following *Crawford*, the courts allowed for admission of such statements made during an ongoing emergency because they are deemed reliable if made primarily for the purpose of the declarant requesting help or pursuing safety, not for purpose of litigation.

The Impact of *Crawford*

In 2014, Scott Wood, a graduate student at the University of Wisconsin Robert M. La Follette School of Public Affairs, as part of a clinical program, attempted to estimate the effect of the U.S. Supreme Court's *Crawford* decision. Wood conducted regression analysis of misdemeanor data from 1993-2013 from the Domestic Violence Unit for the Milwaukee County District Attorney's Office. Wood found that when holding all else equal, the *Crawford* decision of March 8, 2004 led to a 1.33 percentage point decrease in conviction rate for domestic abuse law enforcement referrals. In other words, in the context of Milwaukee County, where there are on average 10,000 domestic abuse case referrals per year, there are 133 fewer convictions per year as a result of the Supreme Court's decision. The efforts described by Tempelis within this article are, in part, a response to the challenges faced by prosecutors post-*Crawford*, in a large, metropolitan jurisdiction.

Prosecutors used the previously drafted post-*Crawford* brief in Salaam's case to successfully argue for admission of the mother's 911 call statements. The trial court agreed with the brief's arguments and admitted the mother's statements at trial through the 911 telecommunicator.

After four days of trial, the jury returned guilty verdicts on each count. The judge sentenced the defendant to serve over two decades in Wisconsin State Prison. The outcome – which stood on shaky ground at the first call for trial – brought the defendant to justice, protecting the public and a domestic violence victim.

The Salaam case illustrates the innovation, collaboration, and effort made by Milwaukee County law enforcement, victim advocates and prosecutors to achieve justice and public safety in a challenging area of criminal practice.

More Will Be Done

This past year, the Milwaukee County District Attorney, local law enforcement agencies, and Sojourner Family Peace Center, with the support of the Wisconsin Department of Justice, among others, secured federal funding to implement the Lethality Assessment Program (LAP), an evidence-based initiative.⁵

The program aims to help better identify those at highest risk for intimate partner homicide and to focus service and resources on them as a means of prevention.

Many of LAP's risk factors are those which made Salaam's victim a high risk for homicide. Salaam's continued efforts to coerce and manipulate the victim before and after his arrest highlight the resources needed to protect victims.

Endnotes

¹ See Browne, A., *Battered Women Who Kill*, The Free Press, 1987; Campbell, J.C., *The Danger Assessment Instrument: Risk Factors of Homicide of and by Battered Women*, in Block, C.R. & Block, R.L., Questions and Answers in Lethal and Non-Lethal Violence, National Institute of Justice, June, 1992; Edeson, J.L. & Toman, R.M., *Intervention for Men who Batter: An Ecological Approach*, 49, Sage, 1992; Hart, B., *Beyond the 'Duty to Warn': A Therapist's 'Duty to Protect' Battered Women and Children*, in K. Yllo & M. Bograd (Eds.), *Feminist Perspectives on Wife Abuse*, Sage, 1988; Sonkin, D.J., Martin, D. & Walker, L., *The Male Batterer: A Treatment Approach*, Springer, 1985; Stordeur, R.A. & Stille, R., *Ending Men's Violence Against Their Partners: One Road to Peace*, Sage, 1989; Glass, N., Laughon, K., Campbell, J., Wolf, A.D., Block, C.R., Hanson, G., Sharps & P.W., Taliaferro, E., *Non-Fatal Strangulation Is Important Risk Factor for Homicide of Women*, Journal of Emergency Medicine, 2008.

² [National Coalition Against Domestic Violence: Domestic Violence Facts.](#)

³ Speech by Dr. Jacquelyn Campbell, Johns Hopkins University School of Nursing, Driving Change Conference, Boston, Massachusetts, April 2013.

⁴ Speech by Lieutenant Mark Wynn, Wynn Consulting, Driving Change Conference, Boston, Massachusetts (April 2013).

⁵ Lethality Assessment Program, MNADV.org/lethality/. The program was created by Dr. Jacquelyn Campbell of Johns Hopkins University and Maryland law enforcement.

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