

# **REPORT**

## **Independent Review of the Middlesex District Attorney's Office Regarding the Release of Jared Remy at the August 14, 2013 Arraignment in Waltham District Court**

**Commissioned by:**

**Middlesex District Attorney Marian Ryan**

**Prepared by:**

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Norfolk First Assistant District Attorney**

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Essex District Attorney 1979-2003  
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## **Scope of Work**

Jared Remy has been charged with the murder of Jennifer Martel on August 15, 2013 in Waltham. On August 21, 2013, District Attorney Marian Ryan announced that Norfolk First Assistant District Attorney Jeanmarie Carroll and former Essex District Attorney Kevin Burke would conduct an independent review of the factors that led to the Middlesex District Attorney's Office recommendation at Jared Remy's August 14, 2013 arraignment on a charge of assault and battery with a dangerous weapon against Jennifer Martel. DA Ryan requested the independent review as "a fact-finding assessment and review of the circumstances that led to the release of Remy following his arrest on August 13, 2013" and to determine "if the office's policies and procedures were followed in this case, and whether those policies and procedures are sufficient to adequately address the offender release issues which arise in domestic violence cases."

To fulfill its mission, the independent reviewers undertook to: (1) examine all relevant facts and information, including MDAO policies, training, and supervision; (2) evaluate the steps taken by MDAO; (3) evaluate the decisions made by MDAO; (4) assess the courses of actions available to MDAO; (5) decide if any efforts were omitted that should have been taken; and (6) determine if any anomaly or systemic failure occurred.

## **Executive Summary**

To conduct our independent fact-finding analysis on the circumstances leading to Jared Remy's release on August 14, 2013, including whether MDAO's policies and procedures were followed and if they were adequate, we first examined voluminous documentary material, most of which MDAO provided, that has a bearing on this task, including: MDAO policies, organizational structure, training manuals, guidelines, intake forms, a memorandum on prosecuting domestic violence offenses since DA Ryan took office in April 2013, a timeline on MDAO's allocation of resources during DA Ryan's first months in office through September 24, 2013; police reports, 209A affidavits, 911 tapes; CD of August 14, 2013 Waltham District Court arraignment; criminal history record information; statements released on August 16, 2013 and August 26, 2013 by local domestic violence prevention organizations; and Massachusetts law on arraignment, bail, pre-trial detention, and domestic violence. After this review, we met individually with those directly involved in the arraignment on August 14, 2013, MDAO employees assigned to Waltham District Court in August 2013, and those in MDAO supervisory positions.

In summary, we found that MDAO has not only maintained a solid performance in allocating resources to the prevention and prosecution of domestic violence but MDAO considers the safety of domestic violence victims to be of utmost priority. MDAO has an impressive structure for training and supervising victim witness advocates and assistant district attorneys. We also note, although this is not directly related to our specific task, that MDAO shows a formidable commitment to working with police departments and to outreach to organizations and service providers on the issues of domestic violence prevention, awareness, and coordination. We point out that we were not asked to consider or evaluate the Waltham Police Department's responses on August 13-14, 2013 in this independent review.

To the extent there was a weakness in MDAO's training, supervision, or handling of domestic violence cases, we pinpointed this to be at the pre-arraignment stage. While there was ample education and training on domestic violence risk factors and on which cases should be referred to superior court or for district court supervision, a deficiency appeared at the pre-arraignment stage on the subjects of requesting monetary bail, whether to move for a dangerousness hearing, and what conditions of release might adequately protect a victim's safety. To be sure, there were quite adequate training materials on how to conduct a dangerousness hearing, what evidence may be presented at the hearing, and similar subjects. What was missing was attention at the pre-arraignment stage on decision-making by assistant district attorneys and victim witness advocates and their need for supervision and consultation on whether and when to move for a dangerousness hearing, how to analyze that issue at that stage, what conditions of release should be requested, what risk factors should be addressed at the pre-arraignment stage, how to include the victim's involvement or expressed interests, and similar matters.

We believe this deficiency contributed to the decision on August 14, 2013 to request that Remy be released with only bail warnings and a no abuse order. Specifically, we found that Remy's domestic violence criminal history, the facts in the August 13, 2013 police report, and the fact that there was a young child in the home were not given sufficient weight, while the victim's decision not to come to court to extend the emergency restraining order or to request conditions of release was given excessive consideration in the evaluation. The absence of any further discussion, review, or supervision foreclosed an analysis that would have gauged the risk factors presented in the records at-hand, i.e., Remy's criminal history record and the August 13, 2013 police reports.

MDAO's leadership fully understands the risks and responsibilities involved in handling domestic violence cases and has already taken measures to improve its handling of these cases, including reinforcing its responses and communications between MDAO staff and victims and between MDAO staff at all levels of the organization and throughout all the stages of the case, from intake to arraignment to referral to disposition. We do not believe any comprehensive overhaul is needed, particularly since immediately after August 15, 2013 MDAO responded with specific improvements, such as supplemental training, amended intake forms, mandated referrals, and expansions in its communications and supervision at all levels.