

Workgroup to Study Child Custody Proceedings Involving Domestic Violence or Child Abuse Allegations

Meeting Summary – September 3, 2019

The Workgroup to Study Child Custody Proceedings Involving Domestic Violence or Child Abuse Allegations held its seventh meeting of the 2019 interim on Tuesday, September 3, 2019, in Room 101 of the House Judiciary Committee Room in Annapolis, Maryland. The following members were present:

Secretary of State John C. Wobensmith, Chair

Senator Mary Beth Carozza

Senator Susan Lee

Ms. Camille Cooper

Mr. Paul Griffin

Ms. Anne Hoyer

Dr. Inga James

Ms. Joyce Lombardi

Ms. Claudia Remington

Ms. Laure Ruth

Ms. Nena Villamar

The protective parent member was also present.

Welcome and Introductions

The chairman of the workgroup, Secretary of State John C. Wobensmith, welcomed everyone and asked members if there were any additions to the proposed minutes of the August 20, 2019 meeting. Hearing no objections, the minutes were adopted. Secretary Wobensmith then briefly summarized the previous workgroup meeting featuring Professor Barbara Babb. He clarified that Professor Babb's presentation was meant to give a general overview and historical perspective of the family court system and that some aspects of the presentation did not relate to the specific focus of the workgroup. He urged the group to continue to focus its examination on custody outcomes in a data-driven, trauma-focused manner.

Secretary Wobensmith then introduced Ms. Hera McLeod, who was invited to present to the workgroup on her experience in the Maryland family court system leading up to the murder of her 15-month old son, Prince, by his father during an unsupervised visitation.

Presentation from Ms. McLeod

Ms. McLeod began by highlighting changes in Maryland that have happened since her case occurred, including the addition of a supervised visitation center in Montgomery County. However, Ms. McLeod noted that there is still necessary work to be done in the area of family court reform in order to protect children.

Meeting Summary
September 3, 2019

Ms. McLeod next spoke about the abusive relationship she had with her child's father and outlined the information she presented in her custody case, including the witnesses she was able to offer and the evidence that was not allowed to be used against the father. For example, Ms. McLeod described her custody evaluator as being excellent but not qualified or in a position to evaluate the psychological health of the father. Ms. McLeod noted that the custody evaluator was also hindered in her ability to evaluate the fitness of the father as a parent because the father was a Virginia resident and the custody evaluator was therefore unable to conduct an in-home assessment. She also relayed that although the court ordered the child's father to undergo a psychiatric examination, it allowed the father to choose his own evaluator. As a result, the father was able to use a Virginia-licensed therapist who misrepresented her credentials. The individual was licensed only as a school therapist and was not qualified to assess adults; she diagnosed the father as having only mild depression.

Ms. McLeod described the court as having "a lot of smoke" in her case to the degree that the judge was unable to see clearly and needed physical evidence of abuse. She highlighted that opposing counsel also built a case of parental alienation. Although Ms. McLeod initially blamed the judge for her son's death, she now believes the judge was also a victim of the system. She spoke of systemic issues, including errors by child protective services (CPS), criminal court, police errors, and errors in the family court process; such issues cripple a judge's ability to make sound decisions. She emphasized that her case is not unique.

Questions and Discussion

Ms. Laure Ruth asked what pertinent information would have helped the judge protect Prince more. Ms. McLeod answered that the judge did not have the resources or time to vet the therapist used by the father for his psychological evaluation. Ms. McLeod recommended that the court limit psychological evaluations to forensic psychologists known to the court. She also noted the problem of accessing court and police records from other states, especially when there is no conviction. After Ms. Ruth asked Ms. McLeod how she thought the court should get such information, Ms. McLeod suggested that the court have an investigative arm.

Ms. Joyce Lombardi asked if Ms. McLeod had access to prior CPS records during the trial and whether they were introduced. Ms. McLeod said that part of the issue with past CPS records was that they were from Virginia (where another child of Prince's father resided). Ms. McLeod reached out to Virginia for the relevant file, but for reasons unknown to her, they did not have it and she instead had to attempt to introduce a police report of the initial incident. However, the judge did not allow the report to be entered into evidence because the arresting officer was not available. Another issue was that the father was eventually able to have his record expunged, so there was no criminal record to introduce. The inability of Ms. McLeod to offer into evidence police, CPS, and court records from another state relating to the father's previous arrest (for the abuse of another child) was revisited several times throughout the hearing.

Meeting Summary
September 3, 2019

Senator Mary Beth Carozza asked Ms. McLeod to elaborate on whether her custody evaluator was limited by the current system. Ms. McLeod stressed that prior to her meeting with the custody evaluator, she had been advised by her attorneys on how to approach the evaluator in order to avoid accusations of parental alienation. Instead of offering her own opinions, Ms. McLeod presented information gathered from a private investigator; the custody evaluator concluded that the father was unwell and recommend supervised visitation. Ms. McLeod then outlined the challenges she faced when the recommended visitation supervisor had no prior training as a supervised visitation professional. She noted that the court, over her attorney's objection, allowed opinion evidence from the visitation supervisor on a subject that Ms. McLeod felt the supervisor was unqualified to give. She talked about the function of a supervised visitation professional and how there are no statutory requirements in Maryland for individuals supervising visitation. Ms. McLeod also pointed out that supervised visitation at the time was very costly for her.

Ms. Nena Villamar then asked for clarification regarding the involvement of CPS. Ms. McLeod responded that she left the relationship when Prince was only two weeks old and CPS activity was limited to Virginia (where another child of Prince's father resided). Ms. McLeod expressed a desire for the courts of different states to be able to work more collaboratively to share information on issues like child abuse proceedings. Ms. McLeod also offered that while there may have only been circumstantial evidence pointing to the dangerousness of her child's father, considering the lower standard of proof in a civil proceeding, she believes it should not take a conviction for the court to take action to protect a child.

In response to a question from Mr. Paul Griffin, Ms. McLeod stated that there was never a specific finding by the court that the father had committed domestic violence. Ms. McLeod talked about how victims of domestic violence react to or understand the violence against them in unexpected ways. Later in the meeting, Ms. McLeod further spoke to the fact that victims of domestic violence often do not present well in court, in large measure because the court process requires survivors to re-experience their trauma repeatedly through continued exposure to their abuser.

Ms. Claudia Remington asked Ms. McLeod to elaborate on the advice she received from counsel. Ms. McLeod discussed the juxtaposition of abiding by some of the attorney's advice, such as expressing the desire for her son to have a healthy relationship with his father and always referring to Prince as "our son," while also communicating to the court that her son's father was a "psychopath killer rapist." After Ms. McLeod noted that she was required to attend a co-parenting class, Ms. Remington asked whether Maryland courts need to better understand that there are situations where co-parenting is not possible. Ms. McLeod stated she believed this was at the core of the current movement. She again stressed the importance of infrastructure to support safe, supervised visitation for children who are never going to be safe around parents or for victims of

Meeting Summary
September 3, 2019

domestic violence for whom unsupervised custody exchanges are dangerous. She also framed the issue as a public health issue, not just a courts issue.

Ms. McLeod then fielded several questions from audience members. In response to one audience member, Ms. McLeod pointed to potential conflicts of interests and recommended that attorneys selected to represent a child should not also be allowed to work for profit representing parents. In response to another question regarding the power of individual judges, Ms. McLeod opined that it might be desirable to establish a panel system for family court judges, in part because the current system places a tremendous burden on individual judges. Responding to another audience question regarding the mental evaluation of her son's father, Ms. McLeod pointed out that even though serious cases do not represent the majority of the family court docket, there has still not been enough discussion on how to scientifically identify dangerous parents. She opined that courts should have the tools to identify serious cases and have an identified list of independent professionals to conduct evaluations rather than relying on experts selected by parties.

Following questions from the audience, an extended examination of the mental health professional hired by the father ensued with questions from Ms. Camille Cooper and Senator Susan Lee. Ms. McLeod reiterated that the mental health professional who evaluated the father was not assigned by the court. That professional held herself out, including during cross examination by Ms. McLeod's counsel, as being a clinical practitioner equivalent to what is required in this State. However, her credentials as a school counselor in Virginia did not qualify her to evaluate an adult and were not equivalent to Maryland requirements. It was noted that there is currently no method for the court to independently verify or assess the credentials of a mental health professional beyond an opposing party's cross examination.

Ms. Ruth then touched on an issue that she has experienced with courts not providing parties enough time to effectively present a case, which Ms. McLeod said was not an issue in her situation. Ms. McLeod noted the cost burden extended litigation presents to many people and expressed an interest in exploring a process outside of the court for the presentation of some evidence. After Ms. Ruth tried to ground discussion in existing constitutional and evidentiary requirements and the resulting realities of our family court system, Ms. McLeod encouraged the workgroup to not just accept flaws in the system, but to think outside the box and work to change them. Secretary Wobensmith agreed and reiterated this as the focus of the workgroup.

Following several additional comments from the audience, Dr. Inga James reiterated that the workgroup should remain mindful of the volume of individuals making money from child custody and visitation.

Meeting Summary
September 3, 2019

Closing Remarks and Adjournment

Secretary Wobensmith then made brief closing remarks, including noting the formation of subcommittees within the workgroup, and the meeting was adjourned.

Note: This summary has been prepared at the request of the chairman; however, please note that the [archived livestream video](#) of the workgroup meeting is also available and constitutes the official minutes of the meeting.