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**Court Watch Montgomery Testimony   
Neshante & Chloe Davis Domestic Violence Prevention Taskforce**

**May 8, 2017**

**Introduction**My name is Laurie Duker, and I am the Co-Founder and Executive Director of Court Watch Montgomery, a non-profit that reduces domestic violence by improving how Maryland courts handle civil and criminal domestic violence cases and by identifying gaps in our domestic violence safety net. Since we began our work seven years ago, our 70 volunteers have monitored over 4,000 protective order and criminal domestic violence hearings. We have reported our findings and recommendations to our local and state courts and other policymakers. Our local District and Circuit Courts and our County Council have implemented many of our recommendations. Some recommendations have been implemented in District Courts across Maryland.

Based on our deep analysis of civil and criminal domestic violence court cases, I would like to highlight somesuggestions which I urge your taskforce to consider, including areas which need further study. While each County is unique, we think many of the problems we are seeing in Montgomery County are occurring across the state.

**Significant problems with the protective order process in Maryland cost lives**

When paired with a good safety plan, a protective order is by far the most effective means of stopping domestic violence once it has begun. So it is particularly tragic that the protective order process in Maryland so often fails our victims. The impact of every other type of service for victims that is funded by the state is blunted when a victim drops out of the court process before they obtain a final protective order, or when they are granted an order that lacks key provisions for which they are eligible. Yet insufficient attention is paid to improving the current protective order process in Maryland and ensuring that judges are fully implementing key provisions in Maryland's law.

**Dismissals**

Many, many domestic violence victims, approximately 30% state-wide, begin the protective order process but drop out of the process before they obtain a final protective order. That's dangerous -- and a tragic lost opportunity. Victims who either come to court and ask a judge to drop their case, or simply don't show up for their hearing, have raised their risk of physical injury dramatically, having refused to submit to their abuser's power and control, yet not having obtained full legal protection. Victims coming to court for legal protection are more likely to complete the process if it is safe, respectful and efficient, and they have reason to believe they will receive essential services such as safe visitation plans and temporary Emergency Family Maintenance funds.

There has been insufficient study of why so many victims drop out of the protective order process and what could be done to keep more in court. A first step would be requiring the Administrative Office of the Courts to provide monthly and annual summaries of key data, such as dismissal and denial rates by county.

**Incomplete orders**

We owe victims a process that ensures that protective orders that are granted utilize all the remedies available under Maryland law to protect them to the maximum degree possible, and in the particular ways that individual victims need. Many victims today brave the hazards of protective order court only to receive a final order that does not provide critical Emergency Family Maintenance funds or a safe visitation plan that ensures "no contact" with the abuser and that children will be kept safe during visits. Judges are granting far, far too few orders with either funds or safe visitation plans. We believe that more domestic violence victims will seek protective orders once they know that their children will be protected during visitation and they are likely to be given the temporary funds they need to transition to independence.

**Safe visitation services that ensure "no contact" & protect both victims & their children**

Domestic violence victims generally need one very simple, basic thing, above all else, to stay safe, survive and thrive. It is the aim of 99% of domestic violence victims when they walk into court seeking a protective order: a guarantee of "no contact" with their abuser.

Tragically, when a parent walks into almost any Maryland courthouse and asks for a comprehensive "no-contact" protective order they almost never receive it. With very few exceptions, judges make a horrific and shortsighted exception to "no contact." Most judges actually *require* victims of domestic violence to meet their abuser in unsecured locations such as McDonald's parking lots or empty police department lots to turn over their children for unsafe visits. Many judges do so because there are no county facilities providing safe exchanges or supervised visits.

Monitored child exchange and supervised visitation centers literally save lives, help stop the cycle of violence, and provide abusive parents the opportunity to maintain contact with their children, and learn parenting skills and de-escalation techniques.

**We urge the taskforce to consider initiating a program of incentive or matching funds for counties willing to invest in providing safe visitation services for domestic violence victims and their children.**

**Emergency Family Maintenance (EFM)**

In addition to across the board "no-contact" provisions, the second most essential guarantor of a domestic violence victims safety, if she has children, is the provision of emergency financial assistance in the final protective order. Yet the process of setting Emergency Family Maintenance amounts is very time consuming for judges, and not a good use of their time. As a result, many judges go to great lengths to grant final orders without EFM, often telling victims to apply for regular child support instead.

Maryland law includes EFM for a reason - the child support process is too slow to meet the needs of domestic violence survivors who must rapidly transition to a safer living arrangement. Far too many domestic violence victims have returned home when forced to by the lack of funds to remain independent.

**One possibility would be adding a part-time staff person in each courthouse responsible for collecting financial statements from the parties and applying the appropriate formulas so that judges have the information they need to briefly address and set a figure for EFM.**

**Criminal prosecutions of domestic violence crimes**

An alarmingly small number of criminal domestic violence criminal charges are prosecuted successfully, resulting in dangerous offenders retaining firearms and refusing to engage in key services such as substance abuse, mental health, or anger management counseling which would be required as part of supervised probation.

Victims are often blamed for low conviction rates due to the large number of victims who decline to participate in trials as witnesses. Yet in Montgomery County, victims are not provided with funds for child care when they are asked to come to court, usually on at least three different occasions. Nor are victims provided with a victim advocate to provide moral support and answer questions about the process.

**A great deal of study is needed to learn more about steps that could increase successful domestic violence prosecutions.**

**More access to state-wide domestic violence court data can improve outcomes**

The Administrative Office of the Courts has a great deal of data which would illuminate domestic violence issues, but it is very hard to access. Regular access to that data would provide local and state programs with more information with which to shape their efforts. The extent to which Maryland's domestic violence statutes are being fully implemented or enforced should be carefully studied. Legislators and other policymakers should understand how dismissal and denial rates vary by county, and why.

How often are final protective orders providing comprehensive "no contact" provisions, and how often are parents who have survived domestic violence being forced to meet their abusers in dangerous circumstances to exchange children? How often is EFM being included in final protective orders? How might that system be changed to increase the provision of needed EFM funds? What can counties with substantially different rates on key metrics learn from each other? Are the numbers of protective orders dropping due to changes in immigration enforcement?

Seed funds for court watch programs in each county could dramatically improve victim safety and improve court outcomes for survivors.

**We urge the taskforce to push for regular, user-friendly, online access to finalized District and Circuit Court data on a wide range of domestic violence court-related issues. Such data can be used to improve domestic violence decision-making across the state.**

**The taskforce might also consider recommending that:**

* Maryland courts adopt a written policy that no judge will inquire about any party's immigration status during any domestic violence proceeding;
* Legislation be passed to strength civil contempt remedies available in protective orders to give judges the tools they need to promote compliance with abuser counseling and other important provisions;
* Law enforcement further study ways to effectively remove guns from convicted offenders and provide recommendations for needed policy or procedure changes.

Thank you. Court Watch looks forward to working with members of the taskforce on implementing it's recommendations.

Submitted by Laurie Duker  
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