

## COMMITTEE ON CHILD PROTECTION

**Testimony of Erica A. Marthage  
Bennington County State's Attorney  
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### **1. Role of State's Attorney in Child Protection in Vermont**

By statute, the Office of the State's Attorney is responsible for the filing of petitions in CHINS proceedings. In reality the role of the State's Attorney is vastly more. As noted by another witness, the State's Attorney is the one party involved in the proceedings who is "unencumbered by a client". We do not operate under guidelines, policies or mandates. The overarching framework within which the State's Attorney operates is the "best interest of the child". Sometimes that may include case-planning that means a return to the parent, sometimes it means another form of permanency. In Bennington County, I agree with the recommendations of DCF 95% of the time. In the 5% of cases where we disagree, I am open with DCF about why I do not agree and encourage them to consult the AAG in their office. I do not pretend to be a social worker, I rely on the recommendations of DCF in great part and work collaboratively with them. As I have indicated to many caseworkers in Bennington, the system needs social workers with their unending optimism about the ability of parents to rise to the challenge of raising children, but it also needs the State's Attorney to temper that optimism.

### **2. Shortcomings**

- a. The absolute drive to return children to the parent is not in the "best interest of the child". We need to decide as a policy matter if we are more concerned with protecting child safety or protecting parental freedoms. A child in the custody of DCF placed with the parent should not be considered an invasion of parental rights so much as providing safety and benefit to the child. The shortage of caseworkers has been duly noted by other witnesses. High caseloads has not the rationale for returning custody. Parents having the chance to parent their child is the reason I receive. And although the

majority of children that are returned to a parent do not result in the tragic ends of late, many of those children are seen again after any number of family changes. Additional children, further drug addiction or abuse and delinquent or truant behaviors bring children back into the system. If sobriety or domestic violence are only overcome after multiple shots at rehabilitation, where are the children during these fluctuations in stability?

- b. Lack of funding. Caseloads are high, resources scarce, but children should not be paying the price for our inability to provide these necessities. Just hiring more caseworkers may not be the solution. Examining innovative approaches to child protection work may increase effectiveness.
- c. Lack of information sharing with law enforcement and other community partners. In Bennington the State's Attorneys Office knows who is being charged with crimes, the police know the homes they have responded to and DCF may know the family investigations they have done, but there is no clearinghouse for this information. These agencies do not come together to share information and there is no database accessible to all. Not because we aren't willing to, but because it is prohibited. There is an active empaneled multi-disciplinary team in Bennington County. However, the MDT is a review only of sex cases involving child victims. It is not an information sharing session involving multiple agencies encountering kids that may be at risk or in homes where there have been multiple police responses. This lack of sharing means every agency that encounters a child is doing so in a vacuum.
- d. Centralized intake. Centralized intake workers do not know the community, the services or the players. They have a total inability to make recommendations or offer guidance. It is generally frustrating and feels pointless to make any type of report to centralized intake. Because centralized intake is a disconnected entity, law enforcement cannot communicate with a caseworker that knows the community and can respond to questions. Centralized intake workers do not share information they may have regarding history of the family or other risks that should be considered at the time of involvement. Law enforcement can have a domestic call and not know that DCF has had

multiple complaints about the household before. The cumulative nature of the information will likely be examined by the local reviewer but not until much later. An example of the frustration I experience with centralized intake: a complicated case involving 16 year old runaway is front and center with the police multiple times in a week. I directed the officer to call centralized intake when the child is taken into the custody of the police but prior to a call into the judge. In my opinion, the local office was aware of the case and would be able to immediately become involved with diffusing the situation and offering solutions. The centralized intake person informed the officer it didn't matter what we thought, that no one would be called out until the child was actually ordered into custody by a judge. I was informed later this is not the policy of DCF, obviously too late to help with the child. Before centralized intake, I would get an afterhours call from law enforcement about a case that may directly or indirectly involve a child. Law enforcement will have already called the local on-call person who would respond to the police station. If there was not an independent determination that they needed to come out, certainly law enforcement requesting that they come out to assist would be all that's needed. We do not decide lightly to request assistance but a truly multidisciplinary approach means responsiveness on a local level even afterhours.

### **3. Suggestions**

Most of my suggestions are easily derived from the above shortcomings.

### **4. Changes**

- a. Eliminate the ability of courts to issue conditional custody orders without protective supervision. If there is no protective supervision, DCF will not provide the same level of services or post-dispositional review.
- b. Require evidence and findings before a conditional custody order ("CCO") can be issued. A judge should be required to go through the same scrutiny that is required of DCF for placement. Presently, CCOs are issued based on inadequate information because there is no examination by DCF of the proposed placement. While this examination may entail some delay, the balance should be struck in favor of insuring the safety of placing

a child there. Frequently, DCF has not made a determination about the safety of the proposed CCO but still makes a recommendation. I have had more than one situation where DCF is recommending a CCO to a person that DCF could not approve for placement.

- c. Eliminate the DCF policy that a case be closed and custody returned if a child has been placed in the home for 60 days. In some cases, placement in the home is a safe option with supports. However, 60 days is not a long enough litmus test to measure change. We would not expect change from an individual on probation for 60 days, again it is not a hardship if the child is in the home, DCF custody can only offer added protection.
- d. Eliminate centralize intake. See above comments for further detail.

I want to thank the committee for hearing from me, I am hopeful that this committee will effect important changes in child protection in Vermont.