

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
(SFLAC)
June 5, 2015
12:30 pm – 4:30 pm
Department of Justice
1515 SW Fifth Avenue, Suite 410
Portland, Oregon

Members Present: Chair, Hon. Paula Brownhill; Vice-Chair, William J. Howe III; Stephen Adams via phone; Hon. David Brewer via phone; Colleen Carter-Cox; Ryan Carty; Dr. Adam Furchner; Laurie Hart; Linda Hukari; Lauren MacNeill; Hon. Maureen McKnight; Rebecca Orf via phone; Hon. Keith Raines; Kate Cooper Richardson; Robin Selig

Members Absent: Amy Bonkosky

Guests: Samantha Benton, Jason Jansen, Leola McKenzie via phone, Terry Svay, Linda Scher, Tracy Vogeltanz

Chair, Hon. Paula Brownhill called the meeting to order at 12:32 pm.

Introductions

Birth Through Three Training Materials – Parental Involvement and Outreach Subcommittee.
Presenters: Adam Furchner, Lauren MacNeill, and Tracy Vogeltanz.

History of Attachment. Adam begins with an explanation of the historical context of attachment theory and joint parental involvement. Recently, committees have formed to integrate attachment theory and joint parental involvement (for example: AFCC think tank, SFLAC Parental Involvement and Outreach Subcommittee, etc.) Lauren gives an overview of attachment. Attachment definition: the connection between the infant and its caregiver. She states that attachment is more than a bond. It is a response between the infant and caregiver.

Activity 1 – Recall an Attachment Event Activity. The presenters will ask the participants about a time when they were stressed and felt comfort with a caregiver. Lauren then explains the activity on sharing attachment: the presenters will go through the slide and describe the key elements of attachment. Lauren explains the neural connections of an infant. Having repeat experiences of reassurance strengthens capacity to enter a place of calm. A child can be bonded to a parent, but that doesn't mean that that person is a safe person with whom to express distress. Repeated experiences of poor attachment lead to a state of chronic dysregulation. Child cannot return to calm. Attachment is a process, not a state of being and changes throughout the life of the person. Lauren explains repair after rupture – there can be imperfect

relationship, but repair is possible. Knowing that attachments are repairable helps a child deal with other types of stressors.

Supporting Attachment to Both Parents. Adam explains that the key to building attachment is to focus on the child's needs, not the parents' desire for fairness. Adam explains research on father involvement. Adam explains that families are changing (Slide 21), the slide explains traditional model and care-giving arrangements for changing families.

Co-Parenting and DV. Adam explains two worldviews: Coercive Worldview – “All about I,” and Collaborative Worldview – “Many ways to solve a problem, about others.” A coercive worldview will not lead to collaborative parenting. Adam explains principles of DV screening. It is important to have DV screening, and important to know lethality indicators. Between 20-55% of contested custody cases include DV. Linda notes that they will explain that this is not specifically DV training, and will give resources.

Creating Parenting Plans. When creating parenting plans, Linda says to first determine safety. Next, support existing attachments, build emerging or nonexisting attachments, explore frequency of contact and figure out how many overnights are appropriate. The consensus is that children form concurrent attachments, but favor one parent or the other at various times. It is important to foster developmental security from both parents. Linda goes over matrix handout documents, CODIT Tool.

Activity 2 – Applying Tool. Linda goes over activity analysis slides. Chart overview. 1. Safety, 2. Child's trust, 3. Parents' mental health, 4. Child's health and development, 5. Co-parent relationship.

Overnight Considerations. Adam explains that for overnights, an existing relationship of six months with the child is critical. Children and parents must be safe. Conflict can be present, but the type of conflict is important. Step-up plans make sense and should be supported. Signs of distress are normal, but prolonged distress must be addressed. Even when all parenting conditions are met, more than one overnight per week is not indicated for infants 0 to 18 months (general assumption from the researchers.) The policy should be conservative, do the least harm. Parental agreement overrides this rule of thumb.

Review of Bench Card. Adam explains that it contains CODIT information. The Bench Card is coded in red and yellow. Linda explains that there is a place for note-taking. Adam shows where there are suggestions for overnight care and specific recommendations for parenting plans.

Activity 3 – Case Scenarios.

Long-Term Views. Adam says that many parents get caught up in the present, but neglect the future of their co-parenting relationship.

Birth Through Three Guide. Adam says that they will mention the Birth Through Three Guide, and will have links for availability. Linda gives a hat-tip to Tracy for all her hard work on the

Guide. Linda says that there will be materials on the table for people participating in the presentation.

(End of presentation and applause).

Linda has received requests to present to OFLAC, Marion County Bar, and Salishan (OSB Family Law Conference). Should they make a commitment to present? Yes.

Bill says the presentation is terrific. He was just at the AFCC Conference and Marcia Klein Prueitt and Bob Emery did a fantastic section on similar research and said be careful about conclusions. Bill offered to forward the PowerPoint from AFCC presentation. Bill says that practical considerations - slides have too much text, and lighter colors cannot be seen clearly. Also, may think about adding cartoons because this is heavy material. Bill says that the deferral to parents may not go over with some judges.

Judge McKnight remarks that the presenters could add that the younger the child the more rigorous the parenting scrutiny. Also, add information about children with special needs. And keep saying birth through three so that people don't generalize. Bill suggests expanding on the language of deferring to the parents. Bill says that the group did a great job.

Colleen asks if a group wanted you to present, what are the considerations of who to present to. Linda says they would present a full or half day training. Ryan suggests more meat for what happens when there are older siblings. There is tension between what is convenient versus what is good for the kids. Add information to help practitioners with sibling issues.

Judge McKnight has two thoughts: first, in contested cases, most parents present information that there are signs of distress when the child is with the other parent. Judge McKnight wonders about whether emphasizing distress may be confusing – normal age distress versus exceptional distress would be helpful. Adam says that there is information to normalization in certain ages relating to distress. There will also be information in the Birth Through Three Guide. Judge McKnight's second point: great job with explaining the guide wasn't for DV specifically. There is another curriculum - Multnomah County has a grant for DV parenting plans.

Steven says well done, especially with the theoretical information, but the presentation does not address legal background of state law and statute law. Steven says doctrine of change of circumstances. In the real world, a judge makes that decision, and then when a child needs a change, the person is rebutted in court with the previous decision. Also, the Matrix does not account for the situation of the high time parent who is primarily responsible for the frustration of the parenting time, thus the parent automatically knocks out greater number of overnights. Two points have in common, the real words problems that affect the parenting time in court. Linda says that in the slides, they do get further into the change of circumstances piece – needs changing over time, and support the emerging relationship and meeting anxiety of both parents, especially the lesser-time parent who is concerned about losing time later on. The presentation says that there should be step-up plans. On the co-parent relationship factor,

those points are getting deeper into that question without saying, “If you can’t work with the other parent you are out.”

Judge Raines is also concerned about people getting the idea that they can just cause conflict to keep the other parent away.

Bill asks if they can distribute the presentation materials. Linda says not until it is finalized.

Kate suggests adding Present, Emerging, and Absent to bench card. (Just a P, E, A).

Motion: to approve materials and bench card for OFLAP, Marion Bar Association, Salishan.
Motion Passes, no discussion.

- **Action Item:** Feedback on the bench card. Send Linda any feedback on the bench card within a month. Judge Raines will send out the bench card to the judges after feedback is collected (Linda will send the bench card to Judge Raines).
- **Action Item:** Samantha will check on funding to support travel and materials for presentations. Bill suggested a firm or group of firms may sponsor.
- **Action Item:** If anyone has additional contacts for the Birth Through Three presentation, please contact Adam, Linda, or Lauren.

Minutes: Minutes from March 6, 2015 were approved. No corrections or discussion.

SUBCOMMITTEE REPORTS

Self-Representation Subcommittee – Judge Maureen McKnight

Judge McKnight presents How to Serve Legal Papers in Oregon Handout. She wants feedback in one to two weeks. Unless there is concern, can we assume that we can use this as an SFLAC product? (Group replied yes). Let Judge McKnight know if there is a concern.

Another issue for the Subcommittee is attempts at reconfiguring law libraries. Multnomah County Court put in some money to have the PSU Institute for Public Policy provide a background study on how to repurpose the Multnomah County Law Library to be open to the public as a place to go for help. Judge McKnight said that the County had their first meeting with the Law Library Board, and that there will be a work group after the legislative session on how to repurpose the library. The only reason she mentions the background is that she sees a real opportunity to get a critical mass to leverage information to other libraries. Judge McKnight wants to keep the Subcommittee involved because the State Law Library is interested in a convening a summit to consider the extended use of libraries. Repurposing in Multnomah County could lead to innovations, such as establishing pro bono volunteers to Facetime litigants in other counties.

Judge McKnight then switches to identifying what materials are needed for family law. She says it would be useful to know what the gaps are in materials in plain language. She thinks that is the next big task. What do we have and what do we need? Because the three prime producers

are the Courts, Oregon Bar, and Oregon Law Help (LASO). There is not a lot of public information on same-sex issues – that issue could be expanded.

Next, Judge McKnight discusses interactive forms. Judge McKnight met with a private firm launching interactive forms product. She stated that back when the SFLAC discussed this before, she argued that if the court doesn't create interactive forms, then private entities would do it. We already have a lot of commercial entities that don't do a terrific job, but people go there and pay for the service. Judge McKnight gives a heads up that more private firms will create interactive forms. The court is working on interactive fee deferrals and small claims issues before family law. We are a year out, optimistically. Judge McKnight did not have a hard-line figure of what the firm would charge. Judge McKnight mentions that one idea is to survey facilitators on what they love that is not out there currently in terms of forms.

Bill commented that he moderated an access to justice panel at the AFCC Conference. One of the presenters set up interactive forms in Netherlands, Nigeria, and a couple of Canadian Provinces. The panelist discouraged court from ordering new fax machines, so the Oregon Courts are not at the bottom! In the U.S., \$500 million dollars were invested in startups to develop interactive forms. It is not an issue of if forms are happening, but when.

Bill recapped the IAALS study. Incentive-based approach is working. Interviewees are underway in four jurisdictions. In MA, they are standing outside the courthouse and handing out surveys. Bill is going to the IAALS meeting in August and the preliminary study should be released then.

Domestic Violence Subcommittee – Robin Selig

The Domestic Violence Subcommittee is now meeting at the noon hour to accommodate judges. Judge Murphy is interested in joining the Subcommittee.

Robin reports that they have been reviewing pending legislation, and will help Becky make changes once the session is over. They have been between projects. The Subcommittee created a subgroup that will be fine-tuning a bench card for victims of domestic violence. Robin will bring back the finished product to the DV Subcommittee for statewide use. There has been a lot of interest in tools around custody – for example, the Multnomah Co. Family Court Enhancement Project – the DV Subcommittee is deferring to the FCEP so that the work is not duplicated.

Judge Raines says Domestic Violence is not in PSU curriculum for Masters of Social Work. He wonders if the SFLAC should ask the state to make sure that DV classes are required for anyone who is a licensed clinical social worker. Becky notes that psychologists are not required to take any classes in DV.

Judge McKnight suggests a project on the implementation of HB 2776 Emergency Protective Orders. In Multnomah County, the search warrant duties rotate, so they will not always have family court judges issuing protective orders. Judges need training and a one-pager on

emergency protective orders. Becky notes that they are already working on it. Judge Mc Knight notes that there is also an officer training piece. Becky will contact Chief in Lake Oswego about coordinating the training. Judge McKnight also suggests contacting the District Attorneys.

Bill asks about distribution of an emergency protective order one-pager to attorneys. Becky says yes, that the information will be posted on the OJD website.

- **Action Item:** Robin will bring up Judge Raines' suggestion at the next SLFAC DV Sub Meeting on the June 18th.
- **Action Item:** Becky will contact the Lake Oswego Chief of Police, Don Johnson.

Court/Child Support Agency Coordination Subcommittee - Kate Richardson

Kate reports on HB 3231, the "Marriage Bill." The DOJ brought in additional stakeholders to discuss the bill. The DOJ represented the child support system, child welfare, and vital statistics. In the end, the proponents decided to set aside the bill and create a work group during the off session. Kate also reported that the UIFSA bill passed (SB 604).

Kate reported on the Child Support System Project. It will change the focus of the program. The current system must be recreated. The project must be federally-certified, it is a \$110 million dollar project and they are processing more than \$1 million a day. The new system will free CSP for other work.

Judge Raines reported on Tribal Court Orders. Judge Raines sent around a form that the Tribal Courts can use to register Tribal Court administrative orders. Kate says that DOHJ just hosted a state tribal court process, Umatilla and Klamath, and this problem emerged. This form seems like a simple solution. Consensus is that the form is fine, and should be used.

Kate says that the CSP stopped taking cash medical, stopped taking referrals for Medicaid. They cannot accept referrals. More information will be released about when it is appropriate for cash medical. This is not an Oregon-only problem; it is in other states as well. Colleen asks if cash medical changes will be reflected in a calculator. Kate says that it still can be taken, but it is not an automatic selection. Robin asks if any rule changes are needed. Kate says the rules that stand are sufficient because you just have to make findings.

Judge McKnight adds that she thinks the 25-year loophole of terminated parents being contacted for child support is finally closed. DOJ and OJD are working on getting a copy of the termination judgement to the appropriate parties.

Mediation Funding Workgroup - Lauren MacNeill

Lauren says she went down and testified about the need for mediation funding. She would like to formally request that a subcommittee be established rather than just a workgroup. Leola has been involved in the discussions, and would be willing to be on the Subcommittee.

Bill suggests making it a "mostly court-connected mediation," because there is crossover to private mediation. Lauren says they can write a purpose statement. Becky wonders if non-court

connected mediation is outside the scope. Judge McKnight replies that there is a strong interest in training private mediators whether they are connected to court funds or not.

Motion: to form a Mediation Subcommittee to review statewide mediation funding and other issues. Discussion: Judge McKnight asks about what other issues the Subcommittee will take up. Lauren says they will work on the kinds of mediation services are provided and how the court collects data related to the services. Motion passes unanimously.

Judge McKnight asked about the surcharge changes and an assessment of mediation needs. Lauren says that there was supposed to be a report, but has not seen it. A questionnaire on mediation services went out previously before the OJD budget was presented. A draft report was put together, but there were concerns about how some of the questions were phrased. Leola says the Subcommittee can work on a new questionnaire.

- **Action Item:** Lauren Mac Neill will co-chair with Nathalene Frenier from Lane County.

Legislative Subcommittee – Ryan Carty

Ryan reported that HB 2332, a bill supported by the Oregon State Bar, passed the House Judiciary Committee and floor and Senate Judiciary, but failed on the Senate floor. The bill would have put in place a procedure for parties to exchange tax documents every two years without having to file a motion for modification.

Ryan says SB 370, PERS bill, is still alive. SB 370 affords the court the ability to protect certain survivor benefits. The bill is now on House floor, scheduled for Monday. PERS came to Business and Labor Committee to testify against the bill, but the bill still made it out of committee.

Ryan will circulate an email from Angela Laidlaw, President of Oregon Association of Collaborative Professionals (OACP). OACP is putting together a proposal on implementing the Uniform Collaborative Law Act (UCLA), and they want feedback. They hope to put together a proposal for the Oregon Law Commission.

Judge Brownhill asks who is on the Subcommittee. Ryan says five people, he will forward the names.

Kate asks about the Marriage Bill, HB 3231, and whether Ryan would like to connect regarding the work group. Ryan says yes, and that he saw the bill, discussed it with Robin, and had difficulty working through the language.

Bill adds more information on the UCLA issue. Woody Mosten held a conference for collaborative professionals at the Kennedy School, and it was well attended. Six to seven states have adopted the UCLA uniform collaborative law act. The two areas of pushback are: (1) attorneys dislike the idea of being excluded from litigation if the collaboration breaks down, suggest instead that third-party neutrals be used as mediators; and (2) there is a separation of powers concern. Some courts disagree with allowing the legislature to dictate how attorneys practice. Also, no attorney has been disciplined for violating the statute in states where it has been enacted, and it is unclear if there is a remedy for violation. The collaborative law folks

present the act as an aspirational standard. Bill questions whether aspirational statutes need to be in the law. Bill isn't sure where he comes down on the issue, but that it is more complicated than it initially seems. It also affects many groups - mental health practitioners, mediators, attorneys, and many others.

Judge Raines asked about the insurance fix. Ryan says that the fix is on the OSB Family Law Section's agenda.

- **Action Item:** Ryan will forward the email from Angela Laidlaw to SFLAC members for comment.
- **Action Item:** Ryan will forward legislative subcommittee members list to Judge Brownhill.

Limited Scope/Unbundling Workgroup – Bill Howe

Bill reports that there is a meeting on June 17th on UTCR changes. Samantha adds that the Unbundled Legal Services Work Group will take up whether UTCRs need to be changed at an all-day meeting in Salem. Samantha and Leola prepared an outline of how the SFLAC Unbundling Recommendations will be implemented. Bill unfortunately can't attend the meeting on June 17th, but Josh Kadish, who has presented information on Unbundled Legal Services at the last Salishan Conference, will step in to take Bill's spot.

Samantha notes that FLP conducted a webinar this past week on unbundling ethics for judges and court staff. Helen Hiershbiel, with the OSB, presented the material, and it went well.

Bill says that Woody Mosten has slides on unbundling, and Bill passes the slides around.

Ryan comments that he saw in the ABA weekly email that the first 7 legal technicians in the country are up and running in Washington. Bill says that there are other states that use legal technicians, but WA is the first to license and have them take a bar-like test. Bill mentions that we are helping people with a range of services by encouraging unbundling.

BREAK

OJD Family Law Website Presentation – Colleen Carter-Cox, Terry Svay, Samantha Benton
Samantha thanks Colleen and Terry for their awesome work on the website. Colleen notes that it was actually three months because she worked part time. Terry explains the logo design: modern logo, gender neutral, home, and "FLP." The website design is similar, featuring simplicity, but maintaining content. The website uses white space as a design element to make the site easy to read and accessible. On the new homepage, there is less clutter, and it is easier to find what you need. The idea is to make it as user-friendly as possible. Terry has some stats to share; the website is optimized for mobile devices, the screens compress, responsive web design, the left navigation has hover and drop down options to access 40 pages. The old site only accessed 10. The new site only opens new web tabs if you go away from the FLP section and all PDFs open in new tabs.

Colleen's process for revising the content was to look at areas where there was missing content or needed updated content. A big piece was looking at creating a self-help center. The old site has no information at the self-help center. Colleen adds that the photos are mostly from Oregon locations, which they felt was important. Also, the symbols identify easily with the subject matter.

Colleen explains that going into the topics on the old site leads to loss of navigation because you lose the left nav. On the new site, all the topics will be in the left nav so you can easily go back. Also, clicking on the logo takes you back to the home page.

Colleen says the forms have been frustrating for people, because all the forms are singular. She created the option to be able to print out the entire packet if needed. Judge McKnight appreciates having both options. The next forms issue was taking off the numbers, and identifying the forms by their names. Colleen explains that the tabs, and the accordions, and how they save space and are easier to use.

The self-help page contains information on facilitators, finding courts, accessing court services, and a map. Colleen shows the Divorce Find a Form function, and asks if it skirts legal advice – SFLAC says it does not rise to legal advice and that they like it. Colleen shows where the service instructions will go, and where she added safety-focused parenting plans and adoption information.

Adam asked about a search feature, and it will be installed on the final version. Samantha says that the ADA compliance issues are still outstanding and they still want to send it to the facilitators for comment. The website should be ready in August or September.

Judge McKnight asks whether some of the photos can be used on the Multnomah County site. Terry will check. Contact Samantha and Terry if there are questions in the future. Lauren Mac Neill suggests a short URL.

- **Action Item:** Terry will send Judge McKnight information on photo licenses for the county websites.

Interpreter Costs Follow-up – Judge Raines

OSB Salishan Conference – Ryan Carty

Ryan says the good news is he reached out to Stephanie Wilson and Lauren Saucey. They were interested with the bench card, but can't give us an hour. Ryan can get thirty minutes. The Salishan Committees preference would be to give us an hour in 2016. Lauren asks when do we need to confirm. Ryan says immediately. Bill thinks it is really important to take the slot. We've had the slot for six years, and it is good for the SFLAC to be there. Bill notes that if the 30 minute presentation is good this year, then we have a better chance of getting 60 minutes tomorrow. Adam says that we can inform attendees that the longer presentation is available.

LFLAC News

Colleen says that the Lane County FLAC chair, Karrie McIntyre, was just appointed to the bench. She begins July 13. It will be nice to have a family law attorney on the bench.

Samantha suggests that local FLACs can have an area on the website. She also suggests that there be more interaction between the SFLAC and the local FLACs.

Linda Hukari mentioned that since the next SFLAC is in Salem, we could invite the Marion County FLAC to attend and report.

Judge Brownhill met with the Union County FLAC on April 7. There was a presentation on the local batterer intervention program. They are a very involved FLAC, and they meet every quarter.

- Action Item: Samantha will send out directions and parking memo for the September meeting.
- Action Item: Linda Hukari will contact Marion County FLAC about attending and reporting in September.

Other Business

Judge Brownhill brought up bringing back the Family Law Conference. Bill suggests partnering with other organizations.

Samantha will take over sending out the public meeting notices. Danielle Edwards at the OSB has been sending out the notices, and OSB Family Law Section was paying for her to do so. Thanks to Danielle.

Next Meeting

The next SFLAC meeting will be September 11, 2015 in Salem.

Meeting adjourned at 4:02 p.m.