MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
December 7, 2007
12:30 p.m. to 4:30 p.m.

Multnomah County Juvenile Justice Center
Portland, Oregon

Members Present: Hon. Paula Brownhill, Bill Howe, Hon. Robert Selander, Hon. Maureen McKnight, Ernie Mazorol, Butch Castor, Robin Selig, Linda Scher, Jim Adams, Ed Vien, Lauren Mac Neill, Dave Hakanson

Members Absent: Stephen Adams, Hon. Terry Leggert

Guests Present: Gene Berg, Alison Taylor

Staff: BeaLisa Sydlik, Maria Hinton

Judge Brownhill called the meeting to order at 12:35 p.m.

Introductions

Judge Brownhill and the committee welcomed guest speaker Gene Berg.

CONSENT CALENDAR

Minutes from September 7, 2007: Motion to approve the September 2007 minutes was made by Linda Scher and seconded by Bill Howe. Committee approved the minutes as written.

GUEST PRESENTATION:

Gene Berg, Communication Specialist for OJD updated the committee on the Technology Strategic Plan. He gave a brief history of OJIN and described how the new technology system will operate. Gene outlined the several technology projects that are currently in progress and gave tentative time lines. The committee received a booklet produced by the Information Technology Division that gives additional information on the current focus and projects identified for the next several years.

Gene explained the purpose of the Technology Committee (TC), which is the governing body for large IT projects, and several of its subcommittees including the Policy, Law and Standards subcommittee. This subcommittee will determine the rules for the new e-filing environment, and has recently drafted a new chapter to the Uniform Trial Court Rules (UTCR) that will go out in the advanced sheets this month for review and comment. This

subcommittee is also looking at issues revolving around the difference between public information and the ability to access information readily on the internet. This subcommittee will also be looking at security levels for access purposes.

The Web Portal project had recent changes and the OJD will now be working with the Department of Administrative Services to host our Web Portal and will be using their vendor (EDI). One aspect of this Web Portal project is to develop a common look and feel for all circuit court websites with information placed in the same areas of these websites so that people can find information that is organized in a common fashion.

Gene explained that the OJD technology plans will change from a large case management system (OJIN) to an electronic content management system which will allow the OJD to automate some of the work processes in a much more efficient fashion. This process will also create a more secure means to store information, with the ability to develop more powerful search tools to retrieve information.

Jim Adams, as a member of the Technology Committee, further explained the capabilities of the Data Warehouse. His concern regarding the process that is being worked on in the Policy, Law, and Standards subcommittee, is the lack of contact with the SFLAC, as a resource with expert knowledge, regarding the setting of access limits on information, and the potential side effects of decisions that are being made without the insight from this group in regards to domestic relations and family law matters.

BeaLisa reported that the SFLAC Domestic Violence subcommittee has concerns regarding confidential information and the VAWA requirement that there be no information about restraining orders posted, etc. BeaLisa did some in-depth inquiring to see where they needed to go to get their concerns heard. BeaLisa and Robin Selig have been invited to a meeting in mid-December to discuss the confidentiality of domestic relations cases. BeaLisa recommended that a sub-group of the SFLAC review the UTCR advanced sheets regarding e-filing to see how this would affect the ability of self-represented litigants to have the same access to the courts as attorneys. This sub-group would then bring comments/suggestions to the UTCR committee meeting on April 4, 2008.

Bill commented that the UTCR will deal with the mechanics of decisions made by the Policy, Law and Standards subcommittee. He believes that the issues should be addressed at the policy level instead.

Judge McKnight stated that she is aware that self-representation has been discussed on the various subcommittees, but these issues are obviously not the driving force because of the business and civil imperatives, etc. She is very concerned that this issue is not more visible on these committees. Judge McKnight believes that there are three areas where the committees developing policies and practices needs to have input from the SFLAC:

1) Confidentiality, security and DV issues

2) Child Support Program interface with the new technology system
3) Self-representation and making sure that the new system addresses people who do not have attorneys

Gene was not able to address these concerns since his presentation is “technology” based and not policy based. Judge Brownhill asked about the training plan as these new systems are rolled out. Gene reported that the OJD will hire the workforce necessary to complete effective training. Jim Adams stated that at the next TCA quarterly meeting they will be looking at draft models to restructure the budgeting process.

Ernie stated that the two major challenges facing the courts are:

- Reorganizing everyone in a way that they can accept this change
- Running two systems until the courts can effectively run solely on the new ECM system

Gene asked for additional questions, and then thanked the committee for inviting him to speak. The committee agreed that Gene made a comprehensive, understandable presentation and thanked him for his efforts.

Committee Discussion:

The discussion then resumed concerning steps that should be taken in order to voice concerns regarding policy development. Ernie suggested that the committee write a letter to Judge Murphy, who chairs the TC, letting him know of the SFLAC concerns and asking how we could participate in this discussion before any policy is shaped. Bill suggests that the letter be written to the Chief instead. Judge McKnight stated that she is not sure yet where the committee needs to request input, but based on her experience in trying to get Child Support interface issues on the landscape, she believes the committee needs to be aggressive. Jim explained some of the TC structure and stated that Kingsley, and often the Chief, attend the TC monthly all day meetings. The TC is advisory only to the Chief and the Chief tells the TC what to do.

Robin suggests that the SFLAC as a whole has a role in commenting on the UTCRs and also supports writing a letter to the Chief voicing concerns and offering input into policy development.

Judge McKnight asked if the committee should contact Leola McKenzie, Acting Director of CPSD, and chair to the Policy, Law and Standards subcommittee prior to writing to the Chief. Maria stated that she thought it would be wise to let Leola know the committee concerns and the desire to write a letter to the Chief voicing those concerns. BeaLisa stated that she thinks we would get feedback from the Leola and the Chief if we can suggest exactly what the SFLAC can do in response to these concerns, or identify the SFLAC role in this process. BeaLisa also stated that the SFLAC is an advisory body

to the State Court Administrator and as such should definitely include Kingsley in

correspondence.

Butch mentioned that it sounds like the TC is aware of concerns from different arenas and rather than receiving a letter voicing more concerns, would possibly appreciate SFLAC input with planning and suggestions outlined in the letter. Dr. Ed Vien expressed his concern regarding the accessibility of psychological evaluations, and although if these evaluations are entered into a case as evidence and considered public record, they should not be easily accessible over the internet. Ernie suggested that we need to think about how digitized information (in all aspects of a case record) will be accessible.

Judge McKnight made the following points:

- Judge McKnight suggests Judge Brownhill or a representative from the SFLAC make phone contact with Leola prior to initiating a letter to the Chief and SCA
- Things move very quickly on these committees and is concerned that if the SFLAC commits itself to do something, then that obligation must be met in the timeframe that these committees demand
- Gene's presentation raised a number of issues that impact family law and it would be helpful to have a short brainstorming session to outline the issues prior to discussing them with Leola

Alison suggested that SFLAC develop an outline for the Policy, Law and Standards Committee of "impact and effect" of policy decisions. This would allow for SFLAC input while eliminating the need for participation in the committee's frequent meetings.

Jim identified two different issues:

- The SFLAC can react quickly to the confidentiality issue
- The SFLAC has a long term major initiative of keeping the self represented issues in the forefront of the technology developments. Once the ECM, CMS, and the financial technology are rolled out (about a year from now), the OJD will start to incorporate modular components into the new systems. It is at this time that the SFLAC needs to have greater input regarding services for the self represented.

Judge Selander asked for clarification regarding the issues and concerns that would be communicated to OSCA. Judge McKnight agreed that this committee needs to spend some time fleshing out the specifics and recommendations.

Judge Brownhill clarified that the motion is to send a letter to the Chief (with prior communication to Leola) letting him know that the SFLAC would like to be involved in Technology Strategic Plan in an advisory role that would suggest ways to avoid unintended consequences of the greater transparency of electronic data management. An example of this would be recommendations concerning "privacy" and safety issues in family law. Motion passed.

The committee voted to further discuss additional issues that should be included in the

letter to the Chief. Judge McKnight identified other main areas that fall within the family law arena, acknowledging there may be additional areas that need discussion, and that should be identified as priorities:

1) The DOJ Child Support Division interface needs to be recognized, in writing, as a priority within the new technology systems,
2) Self representation issues must be identified, for example, fee waiver/deferrals. The e-filing system may not be available to low-income individuals who need fee deferrals to file and we need to make sure that their ability to e-file is accorded the same priority as those who can afford to file. Plans to address this equal access issue should be identified,
3) The self represented person needs to have electronic access to filings within their own cases with the same utility as lawyers. There are access issues about parity regarding people who represent themselves, whether they are low income or not,
4) How do the Technology initiatives affect people who do not have access to computers and electronic filing, and will current resources within the courts (Facilitation Programs) remain (and continue to be enhanced) as a source of access for this population?

Butch stated that the Department of Justice (DOJ) has had many meeting discussing the levels of accessibility for information. They have developed a tiered identification system that classified information as public, sensitive, confidential, or restricted, then sets authority limits to access each level (tiered system of access). These decisions should be defined early in the process.

Judge Selander stated that he believes we need to be very careful. The easier we make it for self represented people to file without talking to an attorney or a facilitator, the easier it could be for them to make some horrible mistakes with potentially dangerous consequences. He stressed caution as the project moves forward.

Bill will draft the letter and forward it to Judge Brownhill. She will then edit and send to the committee for comment. In the meantime, Judge Brownhill will call Leola to solicit suggestions.

Judge Brownhill will review the new UTCRs and, if necessary, forward them to the committee for comment.

Guest Presenter John Langenwalter:

Mr. Langenwalter was unable to join the committee today due to illness. Judge Brownhill suggested that the committee discuss an issue brought to our attention by Mr. Langenwalter regarding Parent Coordinators and Custody Evaluators. An article in The Oregonian this past October highlighted several cases where the Board of Clinical Social Workers revoked licenses of people for unethical behavior. A social worker who had his licensed revoked for unethical behavior was appointed by the court as a Parent Coordinator. This has resulted in the Board coming to Kingsley asking questions on

court procedures in appointing Parent Coordinators.

What BeaLisa has learned is that there is no “standard” statewide. The SB 167 Guidelines Committee did develop some guidelines in 2004, however, what Kingsley would like the SFLAC to do is review the guidelines and see if they need to be expanded to establish some standards for judges when they appoint professionals to assist in family law cases. The Board would like to see a revision to the guidelines that limit the appointment of Parent Coordinators and Custody Evaluators to licensed individuals. Mr. Langenwalter is planning to attend the March SFLAC meeting.

Alison reported that since the guidelines were established in 2004, the Association of Family and Conciliation Courts (AFCC) has developed an extensive set of new standards for Parent Coordinators, some of which may address this concern. It is Alison’s’ understanding that the SFLAC workgroup planned to revisit their guidelines after the publication of the AFCC document. Lauren mentioned that NASW also has guidelines for social worker custody evaluators.

Judge Selander stated that there are a small number of qualified evaluators available and the courts are pressed to receive information in a timely manner. Judge Brownhill suggested that the committee table this issue until the March meeting.

POLICY CONCERNS AND DEVELOPMENTS—New

Judge McKnight’s presentation:

In November, an Oregon team consisting of Chief Justice De Muniz, Judge Pratt, Judge McKnight and Mollie Croisan, who is the OJD Education Manager, traveled to Texas to attended the National Judicial Conference on Leadership, Education and Courtroom Best Practices in Self Represented Litigation, sponsored by the Self Represented Litigation Network. Judge McKnight was active in planning part of the curriculum for this conference. There were approximately two hundred attendees: six Chief Justices, twenty plus Appellate Judges, and the rest were Trial Court judges and Judicial Education Directors, with some Pro Bono Directors or Legal Services Directors and Pro Se Coordinators for courts.

There were team and role playing exercises focusing on specific issues: what would work in Oregon; how would it work; what group would the team talk to concerning this issue; how can we make this happen in Oregon; etc. The curriculum looked at the in-courtroom piece, as well as the judicial leadership piece which focused on the role of the judge in public arenas. For example, judges taking part in the legislative process and talking about access to justice efforts within the courthouse, or working with new judges, resistant judges, and experienced judges. This session also talked about the ethical issues that judges face when dealing with self representation issues outside the courtroom. The Chief has already called a meeting with Judge Pratt, Judge McKnight,

Judge Brewer, Leola McKenzie, Mollie Croisan and BeaLisa Sydlik to debrief about the information gathered at the national conference.

Mollie has started sketching out a tentative education plan and at their next meeting will continue to work on this plan. They feel strongly that all court staff are given the same message and have training tracks for staff as well as for judges regarding this issue. The Chief is supportive of Judge Rosenblums workgroup looking at the ABA model code, and making sure that the judicial support for self representation issues are part of that inquiry.

Judge McKnight suggested to the Chief that the OJD develop some operating principles for the training. These principles would become the core position of the department regarding self representation issues. An example would be "we don't blame people for being self represented". These principles would be presented to Presiding Judges and Trial Court Administrators to solicit buy-in prior to the roll out of the training program, so that we would have top-down approval and acceptance of these principles.

As an additional resource, a listserv has been created and judges from various states who attended the conference are starting to post strategies and training plans, as well as judge and staff reactions, to share with interested states.

OSCA, and the SFLAC Self Represented Legal Services Subcommittee, is working to obtain information regarding A2J Author "guided interview" products. The OJD will use the new Fee Waiver/Deferral form as a pilot for the A2J Author product. OSCA is hoping to have the guided interview form up and running some time in January. BeaLisa and Lynne Lloyd from Legal Aid Services of Oregon will be attending a pre-conference training dealing with "plain language" issues for forms and court documents. This training, sponsored by the Legal Services Corporation, precedes the Technology Improvement Conference that will be held in Austin, Texas in January 2008.

Judge McKnight distributed copies of the Self Representation Litigation Network home page called "selfhelpsupport.org". She explained that this website is a very comprehensive electronic library and encourages the committee to become familiar with the contents of this website. The Self Represented Legal Services Subcommittee report will soon be added to this website.

Committee structure, membership, etc.

Judge Brownhill informed the SFLAC that the Chief is doing a study of committees and she was contacted to answer several questions regarding the activities of the SFLAC. The Chief has stopped appointing members to judicial conference committees and he will not be replacing people until the completion of the study. The focus of the study is to look at how best to organize advisory groups and maximize efficiency. Judge Selander

mentioned that the SFLAC is a statutory committee whereas other committees are not, and this makes the SFLAC fall into a different category.

Judge McKnight has suggested that the SFLAC recommend to the Chief that we adopt staggered terms for appointments to the SFLAC. She believes that new commitment and vitality helps to balance the continuity and constitutional memory of any committee. Bill Howe stated that he is not in favor of term limits and he feels that the loss of institutional perspective and momentum would not be balanced by new members.

Bill suggested that Judge Brownhill write a letter to the Chief informing him that there will be two openings on the SFLAC by early spring. Ramona Foley from DHS has recently retired and Judge Leggert is retiring in the spring of 2008. We would ask the Chief if he would like the committee to recommend replacement members.

Judge McKnight made a motion that the committee recommend to the Chief that staggered terms be imposed on existing and new members of the SFLAC in order to institutionalize regular turnover opportunities and allow for new members to bring new perspectives to the group while maintaining the historical integrity of other members. This staggered term would start when the existing appointment order expires in December 2008. At that time, the Chief could consider appointing members for one, two and three year terms, in order to allow for rotation on and off the committee more by choice rather than by attrition. Ernie seconded the motion and the motion passed.

SUBCOMMITTEE REPORTS:

Annual Family Law Conference:

The Wittenberg Inn has changed its name to the Keizer Renaissance Inn. The theme for the conference is **"Cold Computers, Warm Hearts: Using Technology to Serve Family Law Customers".**

The Save the Date flyer is being reviewed by the Education division and will be finalized and sent out soon.

A draft call for presenters is being developed with the following topics identified as potential workshop themes:

- Technology Tips for Family Law Practitioners
- Civil Unions and Domestic Partnerships
- Using Technology to Improve Child-Focused Mediation (Charles Asher)—Judge Brownhill suggested the committee review his information on the web
- Paternity Disestablishment

Legal Ethics and Technology, and/or Legal Ethics and Treatment Courts—Ellen Rosenblum did a presentation at the Judicial Conference, and Judge McKnight will follow up with obtaining information from the presentation

A Guide to Recent Appellate Decisions in Family and Juvenile Cases

Ernie suggested that a panel to discuss "public law vs. privacy issues" would be very beneficial and could also serve as a template for input on policy decisions. Bill volunteered to look into organizing a panel and possibly would moderate the panel (as a plenary session). The panel could discuss privacy issues impacted by technology, with a subset of what happens when e-filing is initiated. Maria mentioned that one of the workshops at the "Government Attorney" conference, was titled "Dangerous Curves Ahead: The Crossroads of Ethics and Technology", and the presenter is from the Oregon State Bar. Maria will give the contact information to Bill for follow-up for his panel.

Judge Brownhill reported that she asked Judge Murphy to do a presentation on the OJD e-court project and Judge Murphy agreed. He will be working with Bud Borja to develop a presentation appropriate for this audience. This would blend well with the panel discussion organized by Bill.

Judge Selander would like to see a workshop on Ethics and the Self-Represented Litigant, rather than Ethics and Treatment Courts. He would like to see something specific for judges on what they can and cannot do what they should do and what they shouldn't do. A practical application focus would be a very useful workshop.

Judge Brownhill asked for confirmation of the Conference Planning Committee membership: Judge Brownhill, Chair, Judge Leggert, Linda Scher, Dave Hakanson, and Robert Selander.

Domestic Violence Subcommittee:

The DV subcommittee has not met since the last SFLAC meeting. They have a meeting scheduled in mid-December to review the FAPA forms that BeaLisa and her workgroup have been revising (SB269).

Parenting Plan Outreach Workgroup (PPOW):

Linda distributed drafts of the Parenting Plan Worksheet, Parenting Plan form, and the Long Distance Parenting Plan (the Long Distance Worksheet is being developed).

The full guide will be a very electronically friendly set of materials that will include:

- Cover page with introduction and explanation
- Where Do I Start page
- Reworked Ages and Stages information into appropriate groups by age:
  - Birth to Three

Three to Five
Six to Twelve
Thirteen to Eighteen

- Blank Calendar
- Worksheet for Parenting Plan
- Parenting Plan Form
- Worksheet for Long Distance Parenting Plan
- Long Distance Parenting Plan form
- Resource List
- Glossary
- Feedback form (evaluation)

Linda would like to develop a menu option for people so that depending on their circumstances, a facilitator or mediator can be steered to the applicable information on the webpage. For example, if they have safety concerns, direct them to the Safety Focused Parenting Plan, if they live a long distance from each other they would be directed to the Long Distance Worksheet and form, etc. The workgroup is working on links between documents and resources.

Linda would like general feedback from the committee and would like to circulate the draft revision more widely to judges, facilitators, attorneys, mediators, etc. for comments.

Judge Selander expressed a concern that the instructions are not clear enough with regards to the number of overnight stays agreed upon affecting the amount of child support someone will need to pay or receive. Linda pointed out the large box on the front page of the parenting plan form that talks about important financial implications, however, Judge Selander stated that it is not clear enough or written at a readability level for many parents to understand. Because the legislature linked these two issues together, the form should be very blunt and state that the number of overnights you select will affect the amount of child support you will pay or receive. He feels the first two paragraphs, at least, should be simplified. Linda stated that simplification efforts are an ongoing focus in the revision process.

Linda asked if the committee felt that the documents were ready to circulate to a larger audience for comments or if the forms needed additional work before circulating. Lauren stated that she felt the documents were ready for additional comments. Alison also felt that the documents were ready. Judge Brownhill stated that the committee directs Linda to send the documents out to a larger audience for broader comments. Linda formally thanked Lauren, Dave, Alison and Ed, as well as the other members of the review team who diligently worked on the plans and forms.

Linda let the SFLAC know that the UTCR committee is planning to discuss “parenting plans” at their April meeting. Linda will follow up and try to obtain an invitation to this meeting to inform the committee about the work of the review team and discuss the

revised Statewide Parenting Plan. Linda will report back to the SFLAC at the June meeting.

Court/Child Support Agency Child Support Coordination:

Butch reported that the subcommittee discussed the fact that the Division of Child Support (DCS) staff was once able to supply assistance on calculations for individuals, but they can no longer offer this service. The subcommittee is trying to find alternatives to offering this service to people who need assistance and Butch has been contacting other states to gather information. One suggestion is to see if using law students for this purpose would be feasible.

DCS has now placed the "Request for Modification" on the website and they are working to place additional forms on the web. The CIO from the DCS and the CIO from the Oregon Judicial Department (OJD) are meeting regularly. The DOJ has prepared a one page paper identifying what they would like to see occur, for instance, the filing of court orders, how the DOJ accesses OJIN, etc. The CIO for the DOJ shared this paper with Bud Borja, CIO for the OJD. He believes that some of this sharing of information could be done now and the agencies don't need to wait for the new OJD technology system to be in place. Mark, the CIO for DOJ will start to attend the subcommittee meetings on a regular basis to keep abreast of technology developments and how these two agencies could work together to transfer necessary information.

Self-Represented Legal Services Subcommittee:

The subcommittee is developing a list of potential FL forms that are prioritized in terms of conversion into "guided interview" format. They are polling facilitation programs. The conversion to guided interview format is very labor intensive and the OJD will be applying for a grant in the spring from LSC TIG to receive resources to hire someone to start working on developing the interviews for each form.

In the meantime, CPSD has purchased software that allows the conversion of Word or WP documents to be converted into "fillable" pdf forms easily and quickly. Using the prioritization list, we can start to convert statewide forms into fillable format as resources allow.

Other Business:

Alison announced that the Oregon Family Institute will be holding training on Parent Coordination and the Collaborative Evaluation model in March and April 2008. Exact dates and times can be found on the OFI website.

Meeting adjourned at 4:30 p.m.

FUTURE MEETING DATES:

Friday, March 7, 2008	**12:30 p.m. - 4:30 p.m.**	**Multnomah County Juvenile Justice Center**
Friday, June 6, 2008	**12:30 p.m. - 4:30 p.m.**	**Multnomah County Juvenile Justice Center**
Friday, Sept. 12, 2008	**12:30 p.m. - 4:30 p.m.**	**TBA**
Friday, December 5, 2008	**12:30 p.m. - 4:30 p.m.**	**Multnomah County Juvenile Justice Center**

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