

**MINUTES**  
**STATE FAMILY LAW ADVISORY COMMITTEE**  
**March 7, 2008**  
**12:30 p.m. to 4:30 p.m.**

**Multnomah County Juvenile Justice Center**  
**Portland, Oregon**

**Members Present:** Hon. Paula Brownhill, William Howe, Robin Selig, Stephen Adams, Jim Adams, Lauren MacNeill, Linda Scher, David Hakanson

**Members Absent:** William Castor, Judge Maureen McKnight, Ed Vien, Ernie Mazorol, Judge Terry Leggert, Judge Robert Selander

**Guests Present:** Jon Langenwalter, Alison Taylor

**Staff:** BeaLisa Sydlik, Maria Hinton

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

**CONSENT CALENDAR**

Minutes from December 7, 2007: Motion to approve the minutes was made by Robin Selig and seconded by Bill Howe. Committee approved the minutes as written.

**POLICY CONCERNS AND DEVELOPMENTS—New**

**SFLAC vacant positions:** Chief Justice De Muniz would like the committee's recommendations regarding two vacant positions due to the retirements of Ramona Foley and the Hon. Terry Leggert. Stephen asked for clarification regarding an expectation that one of these spots be filled with a representative from DHS, and BeaLisa stated that she did not believe there was that expectation. Members agreed new members must be committed to attend meetings and work on subcommittees. After discussion, suggestions for filling these positions were identified as well as committee members to make initial contacts:

1. Key legislator and media representative (Ernie Mazorol's suggestion)
2. Judges Keith Raines, Deanne Darling, Dale Koch, Russ West (Judge Brownhill to contact)
3. Bill Howe will contact Kate Brown and ask for suggestions
4. Retired Justice Bill Riggs (Bill Howe will contact)
5. Judge Rebecca Orf (Jim Adams will contact)
6. Robin Selig will call Sybil Hebb and ask for suggestions
7. Judge Eric Valentine (Stephen Adams will contact)

**Confidentiality/sensitive issues (e-court):** At the last SFLAC meeting, Gene Berg presented on the e-Court initiatives. Concerns regarding confidentiality and access issues were discussed in length after that presentation, and it was suggested that the committee write a letter to the Chief voicing concerns identified during this discussion. Judge Brownhill talked with Leola McKenzie, Chair to the Policy Law and Standards Committee (PLSC). Leola supported the committee's wish to send a letter to the Chief and asked that it acknowledge that Leola is aware of SFLAC's concerns.

A letter was drafted and sent to the Chief from the SFLAC. Judge Dan Murphy, Chair of the Technology Committee, contacted Judge Brownhill stating that he was open to any suggestions the committee would like to make.

BeaLisa and Robin have attended three meetings of the Confidentiality Subcommittee of the PLSC and have made the commitment to the workgroup to investigate further how the state could best protect confidential and sensitive information in e-Court. Handout materials include a copy of a memo presented to the workgroup earlier this week that outlines a proposal to protect confidential information in family law cases. Also included was supporting documentation for the proposal based on a sophisticated model developed in Washington State.

The essence of this model is to segregate information. Confidential information would be submitted in one document (Washington calls it the Confidential Information Form). This document would never be available to the public and would be protected electronically with the highest security level. There would be a process for opposing counsel or party to view this document, but the court would make that decision. This proposal would permit the electronic transfer of the confidential information document to stakeholders, specifically the Division of Child Support. The proposal also identifies three additional categories of sensitive information (page 3 of handout): financial source documents, confidential reports, and personal health care records.

Leola will bring this proposal and supporting documentation to the PLSC next week. Eventually the proposal will be distributed to other interested groups, i.e., SFLAC, the OSB family law section and other lawyers groups. Jim Nass, COA attorney, has volunteered to work with BeaLisa and Robin on working through legal "glitches" with integrating this proposal with various statutes and court rules.

Stephen Adams reported that there is quite a bit of constitutional litigation around the country where the press is vigorously challenging public information laws. It would be wise to keep in mind the public records laws as we move forward with developing policies and procedures for electronic security clearances. Stephen suggested as one option for policy development, that there be a clear start date that would indicate any documents filed in court cases after this date would be open for public electronic viewing. Documents prior to this access date would not be available electronically.

Robin has volunteered to work with Kimberly Dailey, OJD Analyst, who staffs the Confidentiality Workgroup, as Kimberly drafts a policy around access to electronic records, and integrate that policy with whatever is developed for family law records.

Linda suggested that the workgroup may wish to be prepared to offer a back-up proposal that would actually change Oregon's public records laws to be less open, or for example, specifically close divorce records or family law cases. Bill suggested that a sound retention and destruction policy be adopted.

**Plain Language Information:** BeaLisa reported on the Plain Language training she attended in Texas sponsored by the Legal Services Corporation and she supplied handouts to the committee. She found the information very valuable and very pertinent to improving assistance to self-represented litigants. She would like to propose that the plain language concept be included in the September Family Law Conference, either as a plenary or a workshop. The majority of the committee agreed with the concept and supported the idea.

**Facilitation Survey:** Jim Adams reported that the Oregon legislature requires all state agencies to implement a public satisfaction survey, and Jim gave a brief history of the development of the OJD Facilitation Program survey instrument. Jim supplied copies of the survey instrument and results from a pilot project completed by Jackson and Deschutes Counties during the time period January 2 through March 4, 2008. The instrument is designed to acquire demographic information as well as evaluate the services received from the program. Queries can be run for basically any information the court feels useful, and the query process is quick and easy to run.

A statewide report is due to the legislature in March 2009, so Jim will be presenting this information to all TCAs at the March 2008 meeting with the expectation that each court will participate in the survey process for either one or two months sometime this summer. Jackson County will compile the data, run the reports and share the information with each individual court as well as compile one public document with aggregate data.

Stephen Adams agreed that this is an excellent example of a professional evaluation process that should be incorporated into all programs that provide direct services. Stephen and Jim both support the periodic implementation, on a statewide level, of a more comprehensive evaluation survey and recommend that it be supported by the SFLAC. All budgets should have dollars allocated to an evaluation process.

**Guest Presenter Jon Langenwalter:** Jon Langenwalter is the Administrator of the State Board of Clinical Social Workers. Mr. Langenwalter explained that the purpose of the licensing board is to protect the public from incompetent or unethical professional practice. The Board verifies education, tests for expertise and monitors ethical practice.

Currently there is statute that protects the use of "Title to Profession" but not the

“Practice of Profession”. The board is working to draft legislation to implement a Social Work Practice Act for several new categories of social work professionals.

The board is concerned because there are people in the state who were Licensed Clinical Social Workers, but because of unethical practices, had their licenses revoked. Under current statute they can still call themselves social workers and use their academic identifiers. There have been courts that have used people with licenses revoked due to unethical practices.

Opposition to the proposed licensing requirement comes from DHS and OYA and it is based on the fiscal impact to the agencies. If they employ licensed mental health providers, they will probably need to pay them more. With that said, Mr. Langenwalter stated that Ramona Foley is in support of the practice act, and several years ago changed the qualifications of several upper management positions within DHS to require higher credentialing. Dr. Ed Vien, SFLAC member and Clinical Psychologist, stated via e-mail, that he is in strong support of certification of custody evaluators and parenting coordinators.

Mr. Langenwalter is recommending that the circuit courts implement a practice that only allows the use of licensed and active custody evaluators. Due to the concern that there are not licensed professionals available to meet the need, Jon stated that he completed some research and reported that, to the best of his knowledge, there are only three judicial districts that might struggle with assigning cases to licensed social workers, and those districts are Malheur, Harney/Grant and Lake counties. Other districts seem okay, but he is not sure if all LCSWs have sufficient training. Jon stated that he is willing to work with the courts and send lists of LCSWs within a jurisdiction. The courts could then make the determination of whom to use as a court-ordered custody evaluator. Jon again stated the goal is “public protection”.

BeaLisa said Kingsley Click asked that SFLAC look at the guidelines and make recommendations. She suggested that SFLAC reconvene the SB 167 Workgroup to review the guidelines. Dr. Vien stated at the last SFLAC meeting that he would chair the workgroup, and Lauren MacNeill, BeaLisa Sydlik and Dave Hakanson volunteered to work with Dr. Vien on the revision process.

**OJD Strategic Priorities/Local court plans (implementations for SFLAC):** The committee voted to table this issue to the June 2008 meeting.

**Discussion of Model Community Courts/Alternative Methods of Resolving Family Matters workgroup activity:** This topic was identified as a top priority during the 2007 SFLAC Retreat; however, due to lack of clarity, efforts have not moved forward. Lauren volunteered to work with Ernie and Dave and report back to the SFLAC at the June 2008 meeting. Staffing the workgroup would be the responsibility of the group. Linda suggested developing a workshop “think tank” at the Family Law Conference.

## **SUBCOMMITTEE REPORTS:**

### **Annual Family Law Conference:**

- Save the Date memo distributed
- Call for Presenters finalized and is now being distributed to interested parties

Linda reported that Dr. Donna Beegle has shown an interest in doing a customized presentation on working with clients in poverty. Also, Charles Asher from Illinois has developed on-line tools in the area of self assessment. He is willing to present at the conference. His materials are educational in nature and courts in Illinois are making it part of the parent education program. You can preview the website "UptoParents" for additional information. Mr. Asher is hoping that an Oregon court would use the materials as a pilot and share responses with him prior to the Conference.

Maria reported that JCIP has a new procedure this year to evaluate requests for grant dollars. Maria has completed an application for a contribution, but a final decision has not been made by the JCIP selection committee. Maria also reported that the OJD Education program will pay for the audio taping of the conference and the scholarships for presenter registration fees.

Judge Brownhill reported that she contacted Judge Rosenblum to see if she would consider presenting on an ethics topic; however she is not available to attend the Conference. Judge Rosenblum did volunteer to help Judge McKnight prepare scenarios for a Conference workshop.

Bill reported that his brother is not available to present on the topic of electronic discovery. Bill stated that it is extremely important to have someone address this issue along with how family law practice is changing with the computer age. Bill had volunteered to moderate a lunch panel and will follow up with Sheila Blackford who presented a governmental attorney training on "Dangerous Curves Ahead: The Crossroads of Ethics and Technology".

Judge Brownhill asked for volunteers to serve on the Planning Committee. BeLisa said the committee is already behind the timeline and suggested that the subcommittee start meeting on a regular basis. Maria will circulate possible meeting dates and times, and will email the subcommittee a copy of the draft timeline for the Conference.

Stephen suggested a Point-Counterpoint panel discussion on whether family law cases should continue to have open records or whether they should switch to a different system. BeLisa suggested that the Policy, Law and Standards Committee be contacted since they are the body that will be making decisions and developing policies and procedures.

Tentative schedule:

SFLAC meeting on Friday from 10 a.m. to 2 p.m.  
Break from 2 p.m. to 4 p.m.  
Conference runs 4 p.m. to 9 p.m. on Friday  
Conference runs 8 a.m. to noon on Saturday (continental breakfast starts at 7:30 a.m.)

Committee will look at the 2006 conference schedule for ideas.

**Domestic Violence Subcommittee:** Robin reported that the subcommittee has met twice since the last SFLAC meeting, and the committee has been busy assisting BeaLisa with the revision of the FAPA forms (SB 269). This has been a very complex process.

**Parenting Plan Outreach Workgroup (PPOW):** The content of the new Basic Parenting Plan Guide (BPPG) is complete and ready for review; however, computer problems have prevented the material from being available for comment. Maria has been working with the IT department to work out the problems, but it has taken substantially longer than anticipated.

Linda reported that the Multnomah County FLAC is up and running again and is looking at the parenting time schedule developed in the BPPG for adoption. Linda is on the committee and is emphasizing the importance of the Facilitation Program staff to be familiar with the materials and to help customers access them. Once Multnomah County adopts their parenting time rule, Linda will work to publicize and get the word out to counties and attorneys.

Lauren and Linda will be presenting the revised BPPG materials at the Court Connected Mediator training in April and at the Facilitation Program training in May. Robin suggested that Linda present at the Salishan Conference for the Family Law section of the Bar, and BeaLisa suggested a workshop for the FL Conference as well.

**Court/Child Support Agency Child Support Coordination:** The committee has not met since the last meeting. No report at this time.

**Self-Represented Legal Services Subcommittee:** BeaLisa reported that the *Self Representation in Oregon's Family Law Cases: Next Steps* report has been widely circulated and self representation has become one of the five major focus points for the Chief Justice. The subcommittee has been trying to identify its role now that the report is complete. It is possible that the report will serve as the OJD statewide plan relating to self represented litigants. The Chief, Judge Burdette Pratt and Judge Maureen McKnight want to develop core values and will bring drafts to the SFLAC when ready.

Judge Rosenblum has been asked by the Chief Justice to head a group on revising the Oregon Code of Judicial Conduct. This group had its first meeting last Friday and BeaLisa attended this meeting and presented on issues relating to needed revisions in the Oregon Canons that affect Pro Bono and self represented litigants. The Chief

addressed this group and during his welcome, stressed the importance of considering changes to the Oregon code.

The ABA Model Code made some interesting changes last year and Canon 2.2, Comment 4, now states that it is not a violation of this rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard. Also, ABA Canon 3.7 was revised and added subparagraph (B) that states a judge may encourage lawyers to provide pro bono public legal services. A change in Oregon is needed because of the uncertainty by judges regarding their role to promote pro bono services.

The subcommittee will be offering Judge Rosenblum's group information on what the national perspective is, what other states have done and how far they have gone as far as judicial administration of actual courtroom evidence, and on issues that come up when trying to accommodate self represented litigants without effecting the need to be impartial and fair. The subcommittee has also volunteered to conduct a survey of attorneys regarding various scenarios and the role judges play when one side is unrepresented. It has not yet been determined when this survey will take place.

**Other Business:** BeLisa reported that the OJD is looking to increase the services of the Facilitation Programs for local courts via the Policy Option Package (POP) proposals.

There is also a POP for statewide positions (attorney and analyst) to take over the development and maintenance of interactive, statewide forms, including translations. This is an extremely urgent need as the revision and conversion process for forms is very time consuming. Jim Adams confirmed that there is an urgent need for standardized statewide forms because of the advances being made toward implementing e-Court. Pilots are scheduled to begin in the spring of 2009. SFLAC support for these statewide positions would be greatly appreciated. Bill suggested that Judge Brownhill write a letter to the Chief Justice expressing SFLAC support for additional personnel resources to support the development and maintenance of interactive statewide forms. Linda seconded the motion. Motion passed unanimously.

Judge Brownhill reported on the Unified Family Court Connection newsletter. There was a Unified Family Court Summit held on May 3-4, 2007 in Baltimore, but Oregon was unaware of the Summit and therefore did not participate. Judge Brownhill will be contacting Gloria Danziger, who will be compiling a report on the Summit, to ensure that Oregon is included in additional and future planning sessions regarding this topic.

BeLisa mentioned that legislative concepts are due to her by April 18, 2008. Judge Brownhill stated that she is supportive of both legislative concepts that BeLisa has circulated to date.

Dave Hakanson reported for Ernie on activities of the Deschutes County FLAC. Ernie obtained the approval of the Deschutes FLAC to go to the county commissioners and

obtain a surcharge fee increase that is tied to the consumer price index. Dave distributed a chart that was presented to the FLAC to gain support of the rate increase that shows the consumer price index vs. Domestic Relations Surcharge.

Judge Brownhill stated that she has concerns about the new fee waiver/deferral process that is tied to the federal poverty guidelines. Since January of this year Clatsop County has been waiving more filing fees than ever before and these fees are directly related to mediation, indigent custody evaluations and parent coordinator services. This new process will have an effect in the overall ability to offer services.

Meeting adjourned at 4:00 p.m.

**FUTURE MEETING DATES:**

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<b>Friday, June 6, 2008</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>Multnomah County Juvenile Justice Center</b>
<b>Friday, Sept. 12, 2008</b>	<b>10:00 a.m. - 2:00 p.m.</b>	<b>Keizer Renaissance Inn, Keizer, Oregon (lunch will be provided)</b>
<b>Friday, December 5, 2008</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>Multnomah County Juvenile Justice Center</b>