

**MINUTES**  
**STATE FAMILY LAW ADVISORY COMMITTEE**  
**September 12, 2008**  
**11:00 a.m. to 3:00 p.m.**

**Keizer Renaissance Inn**  
**Keizer, Oregon**

**Members Present:** Hon. Paula Brownhill, William J. Howe III, Hon. Rebecca Orf, Hon. Robert Selander, Hon. Keith Raines, Ernie Mazorol, Stephen Adams, Jim Adams, Lauren MacNeill, Linda Scher, Dr. Edward Vien, William Castor, Robin Selig

**Members Absent:** David Hakanson, Hon. Maureen McKnight

**Guest:** Alexander Aikman, Deputy Director of Court Programs, Janice Ashe, Alison Taylor, Larry Young, Kathy McLaughlin, David Bertram, Angie Pratt, Hugh Mclsaac

**Staff:** BeaLisa Sydlik, Maria Hinton

Judge Brownhill called the meeting to order at 11:00 a.m. Judge Brownhill extended a welcome to all committee members and guests, and introductions were made.

**CONSENT CALENDAR**

Minutes from June 6, 2008: Stephen Adams moved to approve the June 6, 2008, minutes. Motion was seconded and the committee approved the minutes as written.

**POLICY CONCERNS AND DEVELOPMENTS—New**

**SFLAC Discussion of Potential New Members:** Judge Brownhill welcomed the two new members of the SFLAC, Judge Rebecca Orf and Judge Keith Raines. The committee will continue to consider the addition of other new members.

The committee talked about the size of the committee and the profile of potential new members. BeaLisa reported that there are two new developments that might affect the committee's decision on recommending new members. The Family and Juvenile Committee (FJC) of the Judicial Conference was recently dissolved. It is possible that the SFLAC may be asked for assistance regarding the FJC's past work, e.g. updating the Family Law Benchbook. The Oregon eCourt Implementation Team may be looking to the advisory committees for input and stakeholder collaboration on data sharing across agencies. Ernie suggested that a person from ETSD be named as an ex-officio member of the SFLAC to address eCourt implementation needs.

Bill Howe moved that the SFLAC recommend to the Chief to appoint Russell Lipetzky, an attorney from Marion County, to SFLAC. Russ would be valuable on the Legislative Subcommittee, which BeaLisa now chairs. Motion passed unanimously.

SFLAC decided to wait for further indications from the Chief and SCA regarding the future direction of the committee. Linda suggested that contact persons notify interested parties to extend thanks and to let them know that final decisions have not yet been made.

Judge Raines voiced his concern that there is no longer a formal venue for family law judges to discuss issues, and he has written to the Chief to voice this concern.

Linda voiced concern that the eCourt focus could potentially derail the committee focus and work of improving services to families. She sees "technology" as broader than Oregon eCourt. Stephen remarked that SFLAC should welcome any assignment from the administration related to eCourt that deals with family law issues. The committee is not in a position to advise on other areas pertaining to the development and implementation of eCourt. SFLAC also should welcome issues pertaining to juvenile dependency cases since the Family and Juvenile Law Committee has been dissolved.

Robin Selig mentioned that child support is an important issue that provides a link to technology. SFLAC can be effective in this area.

**Action Item:** SFLAC members are to re-contact interested parties to extend a "thank you", and let them know that committee membership decisions have not yet been finalized.

**Proposal to Revise UTCR 2.100 for the protection of confidential information in court files:** Robin Selig referred to the blue handout which includes a copy of a letter from BeaLisa to Bruce Miller, the UTCR Reporter. The letter refers to the proposal of a new UTCR regarding a "Confidential Information Form in Family Law Cases". It includes a copy of what would be a mandatory Confidential Information Form (CIF) submitted in all family law cases. This would allow confidential information in family law cases to be segregated and kept from public view and possibly from the opposing party when safety issues are a concern. After a meeting with the Division of Child Support, additional changes to these materials will be forthcoming. The UTCR committee will meet on October 10, 2008, and BeaLisa and Robin will attend to present the material.

How this segregated information will interact with the eCourt initiative has yet to be determined. Jim Adams stated that he thought the proposal is well thought out, practical and easy to implement. It is a matter of appropriate security access coding when a document is scanned at the local court level. This form can be viewed as a customized accommodation to ECM. In response to Judge Orf's concern regarding internet access of sensitive materials on the web, Jim reiterated that what a judge sees will be drastically

different from what the public sees and it will all be regulated with security coding and cost of viewing.

BeaLisa reported that she originally worked on a proposal for “segregated information sheets” whereby items like custody evaluations, uniform support affidavits, trial memos, statements of assets, etc. would be separated out from the public access section of the files, but finding no statutory authority to support the proposal, she had to cease work on the project.

Linda voiced concern that the names and dates of birth of children would be considered confidential information in a parenting plan. In these cases, the names of children are very important in order to keep the plan individualized for the family. When safety concerns are not an issue, reducing the children’s names to code (child 1; child 2, etc.) would depersonalize the plan. Robin suggested having two copies of the plan, one for the file and one for the parents with the children’s names listed.

Bill Howe recommended that the SFLAC Legislative Subcommittee propose legislative changes in the 2009 legislative session that would allow this type of segregation of information. Bill volunteered to help draft a proposal and testify at the legislature. Ernie and Jim suggested that this change take effect through an administrative process which would be less visible through the media. Stephen reminded the committee how very sensitive this topic is on a national level. The media and the attorneys for internet providers will be the driving force behind accessible electronic files. Stephen agreed to forward information on current cases relating to confidentiality and accessibility of electronic documents to the committee. Bill has volunteered his office to engage in a research project that will include some risk analysis on privacy issues, what constitutes public documents, etc. to help SFLAC better understand the landscape of these issues and the boundaries available to the judiciary.

BeaLisa stated that the proposal to revise UTCR 2.100 will be presented to the UTCR Committee on October 10, 2008, in response to legislative concepts presented by the OSB Debtor-Creditor Section as well as the DOJ Child Support Program. If the proposal is accepted, the UTCR Committee will put it out for a 6 month public comment period. At that time, the SFLAC can take a position on the proposal.

**Action Items:** 1) Bill will develop an informal report to address the issue of segregated information that will include risk analysis and pros and cons of an administrative vs. legislative approach. 2) Stephen will forward information on current cases relating to confidentiality and accessibility of electronic documents to the committee.

**Discussion of citizen correspondence and concerns:** Materials were distributed to SFLAC members regarding a request by an individual who appeared before Judge Brownhill in a support enforcement case several years ago. The case was resolved and at that time everyone was in agreement. This individual would now like to have Judge

Brownhill removed as the Chair of the SFLAC. Several SFLAC members were individually contacted by this woman.

Judge Brownhill recused herself during this discussion. The committee agreed to have Bill Howe, SFLAC vice-chair, act as Chair to lead the discussion. After discussion and review of the materials presented, the committee voted unanimously to take no action in this matter.

**Action Item:** Bill will write a response to this individual, with a copy to the Chief Justice and Bealisa, expressing the committee's decision.

**Discussion of OSCA resources for Parenting Plan and other forms development:** Linda requested this topic be placed on the agenda for this meeting. She has concerns relating to the limited resources available for the technological advancement of forms development, particularly the parenting plan guide.

- Although the website has been redesigned and the forms have all been revised and are now posted on the web, there are still improvements that need to be made. Some structural changes include the ability to open individual windows rather than going to new pages and not being able to return to the original site, and glitches with radio buttons.
- Other more substantive changes needed include "data merging" from the worksheet and sample schedules to be filed with the court. Linda designed a flow chart that would allow certain documents to be included in "packets" depending on choices made by the user.
- The A2J Author software, which is a very user friendly interview-based format using plain language, has not been made available to OJD because of contract questions and a lack of personnel to implement the software.
- It would increase access to justice to have facilitation programs statewide equipped with computer hardware/software available for public use so that these materials could be accessed and completed in the courthouse.
- CD's with all parenting plan materials should be made available to the public who have computers but no access to the internet.
- Parenting Plan forms need to be translated into other languages, especially Spanish.

Alison suggested that an intern from one of the colleges, who has a strong interest and background in technology, be solicited to work on the project for extra credit. Maria stated that early this summer a paid job opportunity was sent to all community colleges

and universities for just this purpose, (full-time during the summer and part time for the next year), but there was no response.

Alex Aikman, Deputy State Court Administrator for Court Programs, acknowledged that technology is always a resource issue. Alex suggested that SFLAC may need to make some compromises until eCourt is up and running. Several of the items Linda listed are included in the planning for eCourt and we may see some advancement with the piloting of eCourt next spring. Alex would be happy to discuss ideas with the Technology Department to solicit resolution to the “glitches”. Linda will send a letter to Alex that outlines her ideas.

Ernie moved for a recommendation from the SFLAC to the Chief and SCA to take care of minimum fixes immediately and move the remaining fixes forward as part of the ECM rollout. Motion was seconded and passed unanimously.

Dr. Vien suggested contacting large companies like Intel for help. Alex responded that California tried this approach, was unsuccessful, and he would not recommend this action. Alex stated that much of the list is in the planning stages for eCourt, e.g., kiosks with computer availability for the public, turbo-tax like forms development, etc. We will have a clearer picture as eCourt rolls out. Stephen stressed the importance of access to computers for the public within courthouses

The committee discussed the possibility of seeking grant or donation dollars to be deposited into the family law account to help move projects forward. BealLisa stated the statute does allow for private contributions to be deposited into the account. Jim Adams recommended that the SFLAC wait for a response from Alex before any solicitations of grant or donated funds are made. If the OJD can accomplish the changes with existing resources, then we should not approach outside entities for funds.

**Action Item:** The SFLAC will wait for a response from Alex and CPSD regarding the fixing of mentioned “glitches” in the parenting plan materials. If the glitches cannot be resolved with existing CPSD resources, the committee will then look into grant possibilities to fund technical assistance.

**Legislative Report:** BealLisa handed out material (purple sheets) that outlines both old and new legislative business. Old business items are either at legislative counsel or have been returned with comments. There are currently no bill drafts that can be shared. BealLisa will be happy to answer any questions.

New business item #6 originated from SCA Kingsley Click. When the SB269 (FAPA) forms and the summary dissolution forms were revised and submitted to her for review, she questioned the need for notarization on pro se forms. Kingsley suggested that the SFLAC Legislative Subcommittee consider revising the forms to eliminate the need for notarization where possible for submission during the 2011 session. Judges have asked that the notarization section be preserved on some forms.

Item #7 is a product of a workgroup convened to make recommendations for a new Uniform Support Affidavit. BeaLisa served on this workgroup and the group worked for a number of months on a revision to the affidavit. The form was sent out for review to stakeholders and partners including the SFLAC and judges. When analyzing the feedback, it appears that the principle objection from judges and courts is that the form is too long. This proposal will go before the UTCR committee on October 10, 2008. If there are concerns relating to the form, there is a 6 month comment period between October 2008 and April 2009 to submit suggestions.

Judge Raines noted that information on page 6 of the Uniform Support Affidavit could pose a HIPAA violation. BeaLisa will bring this to the workgroup's attention. Also, Stephen Adams raised the issue of confidentiality. The form states that information provided on the form may be made available to the public, and asks for copies of recent state, federal tax returns, and profit and loss statements to be attached to the form. BeaLisa stated that there is no statutory authority to keep this information confidential and this may be an issue for the SFLAC Legislative Subcommittee to work on for the next session. Once the Confidential Information Form is implemented, people using that form will be able to redact appropriate information. Stephen Adams mentioned that California solved the problem with a requirement that the tax forms be produced at the court hearing, then given back to the people and not becoming a permanent part of the record (possibly as an exhibit that can be returned). The form (page 3 ix) could state "Bring a copy to the hearing of ...." Rather than "Attach a copy ..." Additional consideration to this matter should be addressed during the comment period.

**Action Item:**

- For the 2011 session, the SFLAC Legislative Subcommittee considers revising the FAPA forms to eliminate notarization, where possible.
- BeaLisa will address the issue of possible HIPAA violation relating to information asked for in the Uniform Support Affidavit.
- For the 2009 session, the SFLAC Legislative Subcommittee consider working on the issue "tax returns and profit and loss statements" being required rather than treating this information as confidential.

**October Judicial Conference Update:** This is the first year that BeaLisa was asked to organize a family law breakout session for judges. Presentations include:

- Judge Tennyson, Multnomah county, PACT Program (Parents are Consistently There) which is an innovative child support model
- Judge Maureen McKnight will present on the Servicemembers' Civil Relief Act
- Judge Raines and Dr. Strausberg will present on parent coordination. This is an area of great interest across the state in relation to high conflict cases

**Conciliation Fees in Deschutes County:** Ernie reported that the Board of County Commissioners for Deschutes County signed “*An Order Determining a Fee Necessary to Pay the Expenses of Providing Mediation Services in Deschutes County Domestic Relations Suits, Effective July 1, 2008*”, to link the Consumer Price Index to the Domestic Relations Surcharge increase each year up to a \$200 level. The commissioners view this fee as a “court” fee and they are the conduit to apply the order. This order is supported by the judges, LFLAC, and the local bar. Their legal counsel stated that this order was very appropriate to meet the needs of the community. Judge Brownhill suggested that the SFLAC liaisons to the local FLACs bring this to the attention of their counties as a model that is successfully working in Deschutes County and merits consideration throughout the state.

**Performance Measures Advisory Committee:** Judge Brownhill reported that the committee met yesterday and discussed key performance measure #10. This measure addresses court Facilitation Programs and Jim Adams gave a brief history of the development of the key performance measures. In August 2008, courts statewide conducted a survey, and the handout shows the results of the survey compiled so far (868 responses). The results indicate a very positive trend in the area of customer service, but also point to a lack of available resources relating to questions about the ability to make appointments within 5 work days and the returning of phone calls within 8 work hours. Survey results, once completed, will be sent to the legislature as part of the budget process for the March hearings. This survey supports the premise that the Facilitation Programs provide a much needed, highly desired, and professional service to the public. Janel Page, OJD Data Analyst, will be sending completed and individualized reports to all courts in October. Judge Brownhill asked the committee their opinions of the utility of this specific survey and the timeframe when it should be run again (annually, every other year, etc.)

Jim Adams stated that the survey results for his court indicated a need for improved access to the program and he made adjustments to staff duties that increased facilitation staff by one FTE. As a trial court administrator, this decision was based on the survey results. Other courts can gain similar insight. If CPSD resources are scarce, Jim volunteered to provide a backup to assist TCAs in running this survey annually, if desired, since he has the scanning equipment and software. Stephen voiced strong support for the development of evaluation tools for all programs, and stressed the need to have money allocated for just this propose in all budgets. The committee voted to continue providing the survey to court users on an annual basis.

Judge Selander recommended a survey for judges to gather information relating to the accuracy and completeness of the documents being distributed and reviewed by facilitation staff. “Customer satisfaction” of facilitation staff does not address the final result of a judge having the proper forms and complete paperwork in front of them to finalize a proceeding in court. Ernie suggested going one step further and including the domestic relations bar members in identifying problems that are potentially created when self represented litigants make decisions (especially with large asset cases) without the

assistance of legal advice and representation. He is a strong supporter of modest means programs. Deschutes County is also developing a one hour educational orientation for individuals that will identify situations and options that will lead to best solutions.

Linda suggested placing on the December agenda a discussion, on a statewide level, of the inconsistency of service offered by facilitators from county to county, the initial intent of the statute creating the facilitator position, and some of the unintended consequences that are arising.

BeaLisa stated that there is a great variety of the level of services and staffing of programs. One main difference is the level of judicial supervision, and some judges allow their facilitators to designate which forms a person could use for a proceeding. The latest national trend indicates that designating which form might be appropriate for a person to use is considered legal information and not legal advice, as long as the facilitator lets the person know that they cannot guarantee a particular packet will work for them because they do not know their particular situation and cannot advise them.

**Action Item:**

- Maria will let Janel Page know the committee recommends administering the “Family Law Self-Represented” survey annually.
- Place on the December agenda: a discussion of inconsistency of services offered by facilitators from county to county, the initial intent of the statute creating the position, and unintended consequences. Include “standardization” of programs discussion from #3 of the Core Values Statement from the Self Representation Subcommittee.

**OLD BUSINESS**

**Model Community Courts/Alternative Methods of Resolving Family Law Matters:**

Lauren Mac Neill reported that the subcommittee has met once since the last SFLAC meeting. Lauren gave a brief history of the subcommittee purpose. The subcommittee has changed its official name to Model Community Family Courts and current members include Lauren as Chair, Judge Selander, Ernie Mazorol, Butch Castor and Dave Hakanson. People interested in joining this subcommittee are welcome and should contact Lauren. The subcommittee will be completing tasks relating to some initial research and will bring additional information to the next meeting. Lauren asked that if anyone knew of models that were successfully working, to please forward the links to her for subcommittee review. Judge Brownhill suggested that Lauren talk with Professor Leslie Harris. The subcommittee will also be looking at funding opportunities to recommend.

**Oregon Judicial Code Revision Workgroup Update:** BeaLisa reported that the workgroup, headed by Judge Ellen Rosenblum, has prepared revised language for the judicial code that includes suggestions previously made by the SFLAC. This language

will be presented to the Chief Justice as the workgroup’s recommendation for revision to the judicial code. Item (3) addresses guidance for judges working with self represented litigants during court proceedings. The workgroup is still working on a number of other initiatives, including judicial support for pro bono services, and this issue will be addressed at the judicial conference.

**Subcommittee Reports:**

**Family Law Conference Planning Subcommittee:** As of 9-9-08, there were 111 registrations for the Conference. Conference attendance is the lowest ever. The committee brainstormed possible reasons:

- Judicial Conference in October
- Budgetary limitations this year
- Location
- Title that focuses on technology
- Lack of national speaker as keynote
- OSB House of Delegates meeting and OSB Futures Conference the same weekend
- Fall has lots of competing conferences in the family law section
- Agencies need to compensate time off for staff to attend a weekend conference
- Two days increase cost – maybe we need to think about reducing the conference to one day

These are issues the Planning Committee needs to take into consideration in 2010. Leola suggested the Planning Committee consider joining with the JCIP Conference which traditionally takes place mid-August each year in Bend. The JCIP Conference normally covers Sunday, Monday and Tuesday, so if we were to join this conference, we could hold the FL Conference on Friday afternoon and Saturday. When the SFLAC linked the FL Conference with the Judicial Conference and the Circuit Judges Association Conference, judicial participation was increased.

**Breakdown of registrants as of 9-4-08**

Analysts (OJD)	3
Agency Program Directors/Mgrs.	11
Attorneys	12
Attorney/Mediators	2
Mediators	18
Judges	9
Court Sup/Mgrs	4
Court Facilitators/Specialists	32
Legal Advocate	1
Psychologist/Therapist	3
TCA's	3
Others	10

## Workshops

The Oregon Family Fairness Act: What Does it Mean for Family Law Practitioners	24
Interstate Compact for the Placement of Children	8
Cooperative System of Family Law	32
Hard Cases, Positive Solutions: Managing High Conflict Cases Using CEM and Parent Coordination	38
Self Representation: Trends, Technology and Tips	62
Children in the Middle Online for Divorcing Parents	11
The 2008 Paternity Law	13
New and Improved: The Rebirth of the Basic Parenting Plan Guide	19

**Self Representation Subcommittee:** BeaLisa distributed a Core Values statement for review and comment. The Chief Justice, after attending the Harvard Conference on Self Representation, asked Judge McKnight and this subcommittee to develop a statement of core values that could be used as guidance for judges and court staff when working with self represented litigants. BeaLisa presented this document to the OJD Access to Justice for All Committee yesterday and they recommended revising #3 to include the translation of forms into the most commonly used languages in Oregon. After a brief discussion, Linda recommended deferring further discussion of this topic to the December meeting when Judge McKnight could be present to participate. In reference to #3, this could be included in the discussion relating to standardization of services for Facilitation Programs. Because of its importance, Stephen suggested that this item be finalized at the December meeting.

It was suggested that the committee invite the Chief Justice to the December meeting to discuss his views on self representation since attending the Harvard Conference. If he is able to attend, we will move the meeting from Portland to Salem.

### **Action Item:**

- Place this topic on the December agenda.
- Invite the Chief Justice to the December SFLAC meeting to discuss his views of self-representation issues and next steps.

**Parenting Plan Outreach Workgroup:** The revision of the Basic Parenting Plan Guide is now finalized and new materials are posted on the Family Law Website. The materials include a new Medium/Long Distance Parenting Plan. Please visit the website at: [www.ojd.state.or.us/ParentingPlan](http://www.ojd.state.or.us/ParentingPlan) Linda and Lauren introduced the new materials to the facilitators at the May 2008 training and they have a workshop scheduled for the upcoming Family Law Conference.

**Court/Child Support Agency Child Support Coordination:** Butch reported that the Calculation Assistance Workgroup was formed to identify the best place to assist parents in performing child support calculations. The consensus of the group was that the calculation be done within the Child Support Program. The Program has turned in their recommended budget which includes funding for positions to help assist the public with the calculations, but there is no guarantee that the budget item will pass. The Program is also looking at redesigning the online calculator to make it more user friendly (interview based). A focus group will be asked to review the new calculator for additional improvements. Manuals, procedures, rules, guidelines, etc. are being placed in one location on the Program website to make it easier for judges and attorneys to locate certain information. This site will have links to the OJD and the Oregon Law Center.

There will be a meeting soon that will look at the issue of notification not being sent to the Child Support Program in cases of adoption or termination of parental rights. Systems need to be developed to keep everyone informed and Child Welfare and OYA need to be included in system development.

**Domestic Violence Subcommittee:** Robin reported that the subcommittee has two new members: Trish Meyer, an advocate with a private non-profit services program in Bend, and Maureen Knutson, an advocate from the Coos County Victim's Assistance Program.

The subcommittee has completed the revision process of the FAPA forms. More recently, Robin and BeaLisa have been working on issues of confidentiality, eCourt and the UCR revision. The subcommittee has been looking at addressing the issue of statewide inconsistencies relating to stalking protective orders.

Robin and BeaLisa have been keeping the subcommittee apprised of the Firearms and Domestic Violence Task Force that Judge Brownhill chairs. The TF applied for and received a VAWA Stop grant for \$75,000 for one year. They are in the process of hiring a project coordinator (see green handout for specifics).

**SFLAC Qualifications and Guidelines Subcommittee:** Dr. Vien reported that the subcommittee met for the first time at the end of July to review the qualification standards for supervised parenting time professionals and custody evaluators. There are currently ten members of the subcommittee including Alison Taylor, Janice Ashe, Lauren Mac Neill, Dave Hakanson and BeaLisa Sydlik. There is also a member of the Social Work Board on the subcommittee. The subcommittee will review guidelines and standards and identify what is currently working and what needs to be modified. The group will look at the utility of the standards and disseminate information to presiding judges. The subcommittee will also look at assisting counties who use panel providers to ensure consistency of qualifications for individuals established on the panels. Dr. Vien will have a more detailed report for the December meeting.

Meeting adjourned at 3:00 p.m.

**Scheduled Meetings:**

<b>Friday, December 5, 2008</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>CPSD, 1133 Chemeteka St., Salem, OR (previously 324 Capitol St.)</b>
<b>Friday, March 6, 2009</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>Multnomah County Juvenile Justice Center</b>
<b>Friday, June 5, 2009</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>Multnomah County Juvenile Justice Center</b>
<b>Friday, September 11, 2009</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>TBA</b>
<b>Friday, December 4, 2009</b>	<b>12:30 p.m. - 4:30 p.m.</b>	<b>Multnomah County Juvenile Justice Center</b>